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OFFICE OF NATIONAL RECOVERY ADMINISTRATION

DIVISION OF REVIEW

THE MEN'S CLOTHING INDUSTRY

By
J.W. Hathcock

Assisted By

A. Palma Aaronson
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A.A. Fisher
Walter E. Woodford, Jr.

WORK MATERIALS NO. 58

INDUSTRY STUDIES SECTION
March, 1936

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F O R E W O R D

This Study of the Men's Clothing Industry was prepared by Mr. J. W. Hathcock of the Industry Studies Section, Mr. M. D. Vincent in charge.

The study as originally planned was much broader in scope than the finished product. The field of study was narrowed particularly because of limitations in personnel and time. A more detailed explanation of the circumstances shaping the character of the study is found in Appendix A, along with suggestions for further study.

While the study of the Men's Clothing Industry gives considerable attention the a statistical and general description of the outstanding characteristics of the industry, the major part of the study is given to the outlining of the industry's problems and the attempt under the code to correct these maladjustments. The principal problems given attention are those arising from decline in value of the industry's product, narrow profit margins, instability of employment, wages and hours, and home work.

A review of NRA and other governmental files indicates, as shown by the study, that considerable progress was made toward the solution of many of the industry's problems during the NRA period. It is likewise revealed that significant administrative problems arose under the code, particularly as regards the overlapping of codal definitions and the application of the wage provisions providing for the maintenance of wage standards above the minimum.

Most of the statistical material in this study was prepared in cooperating with the Industry Statistics Unit, Statistics Section of the Division of Review. A number of the statistical tables, however, were prepared either within the study group or were obtained from other sources and have not been checked by the Industry Statistics Unit.

At the back of this report will be found a brief statement of the studies undertaken by the Division of Review.

L. C. Marshall
Director, Division of Review.

March 10, 1936.

THE MEN'S CLOTHING INDUSTRY

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THE MEN'S CLOTHING INDUSTRY

SUMMARY

DEFINITION AND SCOPE OF INDUSTRY

The definition of the Men's Clothing Industry confined code activity to men's outer garments, principally those made of wool or part wool. Certain cotton garments, such as linen and cotton wash garments (summer wear) ordinarily made in establishments devoted solely to men's outerwear are included also under the Men's Clothing Code.

The definition for the men's clothing industry was in conflict with several proposed and accepted codal definitions for other industries. Among the industries having codal defintions or suggested codal definitions in conflict with the definition of the Men's Clothing Industry are the Cotton Garment Industry, the Merchant and Custom Tailoring Industry, the Rainwear Division of the Rubber Manufacturing Industry, the Textile Examining, Shrinking, and Refinishing Industry, the Shoulder Pad Manufacturing Industry, the Slit Fabric Manufacturing Industry, the Coat Front Manufacturing Industry, the Infants' and Children's Wear Industry, the Knitted Outerwear Industry, and tailoring shops operating under the authority of the United States Government.

The jurisdictional conflict with the Cotton Garment Industry was of major consequence and was never settled to the satisfaction of the industries concerned. (This conflict is covered under Appendix C.) With respect to the other industry groups in conflict with the Men's Clothing Industry Code, in certain instances definitions were modified or so drawn as to minimize the possibility of serious jurisdictional disputes, yet there remained the feeling that many of these groups might well have been included under the Men's Clothing Industry Code.

The Men's Clothing Industry found some difficulty in adjusting itself to new trade practices brought about by the Code for the Piece Goods Division of the Wool Textile Manufacturing Industry. The new practices related principally to methods of quotation on a semi-rigid discount basis, and f.o.b. shipments. On the selling side, the Men's Clothing Industry was unable to obtain complete cooperation of the "Retail and Wholesale Trade" in respect to proposed fair trade practices relating to discounts, deliveries, etc.

During the Colonial period of American history, most clothing was made a home or was bought as second-hand clothing from dealers in old clothing. Finally the ready-made clothing industry developed from the custom tailoring shops which began to produce for stock in order to keep employees busy. Increase in travel and the stimulus to home industry by a tariff placed upon the importation of cloth in 1832,

encouraged the growth of the Industry. By 1850, the ready-made clothing industry had become important, as is evidenced by a product valued at $48,311,000. The present-day factory of the ready-made clothing industry did not develop until the invention and perfection of the sewing machine around the middle of the 19th century.

During the spring of 1935, the Men's Clothing Industry had 3,225 establishments, including both regular factories and contract shops. This number of establishments fell 466 short of the 1929 total, but represented an increase of 1,000 over the 1933 total.

An analysis of the distribution of men's clothing establishments shows that a very few states, namely, New York, Illinois, Maryland, Massachusetts, New Jersey, and Pennsylvania, account for 88.6 per cent of the 1935 total. New York State alone accounts for approximately 50 per cent.

The principal products produced under the Men's Clothing Industry Code were: men's suits, wholly or partly wool, mohair, and linen; men's separate trousers; men's overcoats and topcoats; men's odd coats; boys' suits; wool, cotton, etc; boys' separate pants; boys' overcoats; boys' mackinaws, reefers, and light coats; and uniforms.

The total value and volume of production in the Men's Clothing Industry declined sharply from 1929 to 1934, the total garments for the two years being 76,795,000 and 48,171,000 with a value of $781,871,000 and $397,873,000 respectively.

A study of the distribution of wage earners in the Men's Clothing Industry by States for the years 1923-1933, inclusive, shows a steady decline, with the exception of the year 1929, from a high of 158,000 employees in 1923 to a low of 119,000 employees in 1933. Also, there is noted a shift of employees during this period of time from the States of New York and Illinois to the States of Pennsylvania and Maryland.

CHARACTERISTICS OF THE INDUSTRY

There are several different types of firms in the Men's Clothing Industry. Aside from the inside or integrated shop, the two most distinctive types are: First, establishments which buy material, cut the cloth, market the finished product, and finance the production from raw materials to finished garment, but which often do not own and operate the plant where the garments are made. Secondly, there are establishments called "contract shops" which take out cloth and accessories from one who finances the business and perform the remaining operations necessary to completing the garment on a piece price basis. There is also found in the Industry the manufacturer-distributor, the "integrated" manufacturer, and the special order or tailor-to-the-trade establishment.

Although there may be as many as 163 operations in the making of an overcoat, the operations in a clothing factory can be divided into a few distinct occupational groups, the principal of which are cutters, fitters, sewing machine operators, pressers, basters, hand sewers, snapers, bushelers, and tailors. The advantages of large scale production in the Men's Clothing Industry do not appear to be very great. A shop employing fifty people is likely to be as efficient as one employing a thousand.

During the last half of the 19th century, a number of new machines resulted in a radical departure from old methods of production. These machines included the power sewing machine, the power cutting machine, gas pressing irons, and machines for button-hole making, button sewing, pocket making, cloth examining and sponging.

An aggregate investment in the Men's Clothing Industry of $100,000,000 is conservatively approximated by application to 1934 sales figures of a tested turnover ratio of 4 times net worth.

A lower mortality than in the women's wear industries is indicated, but records disclose an increasing number of failures from 1928 through 1932, decreasing during 1933-1934, and slightly increasing in the first half of 1935. Causes of failure and numerous voluntary withdrawals by reason of financial losses and discouragement are generally laid to a profound lack of managerial ability; in part, to inadequate capital. Seven years is the average business life of the entrepreneur, with newcomers constantly filling the gaps and fading out through inefficiency.

The amount of capital needed for successful operation is relative. Credit is liberally supplied to well-managed concerns. The "inside shop" manufacturer-wholesaler should have a net worth of $50,000 to $75,000, or more, to permit a volume turnover of 10 times and make a reasonable profit after overhead expenses. A 7 times turnover was considered the pre-depression average. It dropped to less than 4 times in 1933. The turnover base applies also to the manufacturer using contractors or "outside shops." With no investment in plant, his capital needs are less, and turnover higher. The contractor--approximately equal in number to the manufacturing wholesalers--requires a minimum of capital for his investment in sewing machines, etc. He does no buying or selling, merely contracts labor.

Manufacturers with less than $25,000 capital, and those operating in the lower price ranges, appear to have the advantage in turnover.

The proprietorship investment is supplemented by merchandise credits and bank borrowing. A changed policy of woolen mills in weaving to order, rather than for stock, and a shortening of terms to the clothing manufacturer, have substantially increased the latter's financial burdens. Continuous bank loans, instead of the former twice-a-year liquidation, represent the current situation, made more tense by seasonal activity changes and higher labor costs. Investment in inventories has shown an increasing trend, tying up one-third more

working capital than formerly.

Capital within the Industry declined steadily from 1930 to the spring of 1933. Speculation against rising prices commenced with the enactment of the National Industrial Recovery Act. Sales increased, but not so fast as inventories. 1933 year-end statements showed some profit against prior losses. Profits, however, were lessened by dumping of goods to lighten financial strain. Top-heavy inventories carried over into 1934 had to be marked down in that year, which for the average manufacturer showed even smaller profits than 1933. The concern with smaller capital, forced to buy cautiously, fared better than the competitor of medium size, who covered his entire requirements in the pre-Code speculation. The larger, well-financed house was able to carry the load and work inventory off gradually during 1934.

The principal materials used in the Industry are woolen suitings and pantings, flannel suitings and pantings, top-coatings, overcoatings, worsted staple suitings and pantings, and fancy suitings and pantings. These materials were valued at $331,242,000 in 1929, but declined to $157,602,000 in 1933. The costs of these materials to the Industry, plus fuel and purchased electric energy, averaged around 50 percent of the value of the Industry's product for the years 1929-1933, inclusive.

In terms of estimated employment the range for the period 1926-1935 is from a high of approximately 156,300 in August, 1929, to a low of approximately 107,000 in May, 1933. The gain following the improvement in employment in 1933 is shown by an average employment for 1933 of 116,600; for 1934, an average of 121,900; and for the first ten months of 1935, an average of 132,400.

Wages in the Men's Clothing Industry declined sharply from an average of 75.0 cents an hour during 1926 to a low point of 50.6 cents an hour for 1932, but improved considerably during the Code period, from the fall of 1933 through the spring of 1935, to an hourly average of 57.7 cents for the year 1934 and an average of around 60.0 cents for the first months of 1935. The average weekly wage in the Industry declined from the relatively high figure of $24.15 in 1927 to a weekly average of $13.70 for 1932. Improvement followed in 1933, 1934, and in the first ten months of 1935, with average weekly wages of $14.14, $16.26, and $18.32, respectively.

Since 1923, the average annual wage in the Men's Clothing Industry has declined more than the average annual wage in all other manufacturing industries. It likewise appears that the average annual wage in this Industry has declined faster than has the cost of living.

Of the large market areas, Chicago for the last six months of 1934 revealed the highest average wage rate per hour, that of 78 cents against an Industry average of 66.2 cents per hour. The market area of Cleveland led the ten large areas in average weekly man hours for the last half of 1934, with an average of 30 against the average for

the ten large areas of 25.7 hours. Rochester, with 22.3 hours, was the lowest of the large areas.

A study of stability of employment in the Men's Clothing Industry by the U.S. Department of Labor for the years 1923-1928, covering sixty-four establishments in various lines, showed that conditions were bad and that no improvement was made in the six years covered by the study. The average stability for the plants was only 87.9 percent in 1923 and in no subsequent year was the percentage that high.

One of the most striking phases of the Men's Clothing Industry during the period 1923-1929 is the movement of the Industry out of the major manufacturing centers into smaller cities and country districts. Figures from the U. S. Census of Manufactures are cited to prove the point.

Since 1911, the Amalgamated Clothing Workers of America has been the dominant union in the Men's Clothing Industry, which is now about 80 to 85 percent organized. This union has been very aggressive in its efforts to improve the lot of the workers as a whole, and has at the same time, through cooperation with employers, made noteworthy efforts to stabilize conditions in the Industry. Such cooperative action has had as its objective the solving of the problems of "stabilizing production, reducing costs, eliminating waste, composing differences promptly and peaceably, and taking advantage of new technical advances in the Industry without impairing the workers' earnings."

Manufacturers in this Industry frequently use a combination of channels to effect the distribution of their products. In the larger cities some manufacturers own or control their own retail outlets. In the smaller cities and towns they sell direct to the retailer. The manufacturer may sell direct to the large department and chain stores, and indirectly to retailers who purchase in small quantities. Direct selling occupies a dominant position in the distribution scheme due to the nature of the product and localization of the Industry--particularly in reference to style.

Wholesalers of men's clothing find it advisable to develop their own brand, or act as a resident buyer for a group of retail stores, or organize and supply cooperative retail buying associations.

Certain manufacturers of men's clothing, producing in large volume, offer their products to the consumer through their own retail stores. Attention is called to the Bond Stores in the Northern and Eastern States, owned and operated by the Aplo Company. Operating mainly in the Southern and Western States, Richmond Brothers sell through approximately sixty of their own retail stores.

House-to-house selling appears to develop rapidly during and after periods of business depression. One concern, the Nash Tailoring Company, of Cincinnati, Ohio, is supposed to have sold over 500,000 suits and

overcoats in one year using this method.

The importance of established uniform standards in all branches of industry has been recognized for many years. To date there have been none adopted by the Men's Clothing Industry as regards measurements and sizes of garments; labeling to show fibre content of fabrics used; marking to show the guaranteed pre-shrinkage treatment to which the fabrics have been subjected; and what can be expected as to the color fastness of the cloth used in the garments. This information, based on properly established standards, should be stated clearly and simply on a label attached to the garments offered for sale.

The importance of knowing the fibre contents of the cloth from which a garment is made is apparent when it is realized that the quality, strenth, appearance, warmth, elasticity, durability, etc., of the fabric depends on the fibres used in its construction. Each of the various fibres commonly used in the production of cloth has its individual characteristics, and they differ from one another due to having passed through different processes of manufacture.

The consumer, if financially able, generally prefers clothing of all wool construction but, without some standard method of labeling to show the true fibre contents of the cloth from which the garments are made, must depend on the information given by the salespeople, who do not always know.

The Tailor-to-the-Trade Division of the Men's Clothing Industry presented an amendment to the Code of Fair Competition for the Men's Clothing Industry at a hearing held April 15, 1935, regarding labeling to show the fibre content of the cloth used in the production of garments. No official action was taken on this proposed amendment.

Resolutions adopted by the Board of Directors of the National Association of Wool Manufacturers, February 15, 1935, show the importance attached to this matter of labeling by the producers of the cloth.

Excerpts taken from the statements made in support of an amendment to the Code of Fair Competition for the Men's Clothing Industry, regarding shrinkage, at a hearing held April 15, 1935, state the methods of shrinkage commonly used, the results obtained, and the necessity for the practice. They point out that the use of unshrunk cloth in the manufacture of garments is increasing, as is the so-called practice of stretchage. They show the efforts being made to overcome these bad practices and present evidence that the equipment and organization to treat fabrics properly exists in the Industry. They also emphasize the efforts the Industry is making to bring about a standard of cloth shrinkage and conditioning.

Much important work and study is going on in the Industry regarding the subject of color fastness.

The statement of Dr. D.E.Douty, of the U. S. Testing Co., Inc., regarding labeling, is interesting:

> "In my opinion the chief value of compulsory labeling lies not in the technical information given to and utilized by the ultimate consumer, but in the restraining influences it exercises over the producer and the direct obligation placed upon him in his relation to the regulatory agencies of the State and Federal Government."

The Bureau of Standards is cooperating with various groups of manufacturers, distributors, and consumers, looking toward the standardization of sizes, measurements, shrinkage, color fastness, and other criteria indicating quality of garments and other apparel.

PRE-CODE PROBLEMS OF THE INDUSTRY AND WRITING OF THE CODE

The Men's Clothing Industry from 1923 to 1932 showed consistent declines in product value, employment, and rates of pay. In 1923 the product value was around one billion dollars, but for each of the years 1933 and 1934 was approximately $450,000,000. In 1923 the highest number of workers employed in the Industry was 168,771; it is estimated that around 118,000 were employed during 1933, although about 160,000 were attached to the Industry. Allowing for migration in the Industry and other factors, around 48,000 were unemployed in early 1933.

Wages in the Industry for several years prior to the Code had been affected by the actual decline in wage rates and the decrease in employment. It is estimated that actual hours of work declined 10 percent from 1929 to 1932, while hourly earnings also declined. In 1929, the average hourly earnings were 72.8 cents and in 1932 only 50.6 cents, thus unquestionably affecting average annual earnings.

The average clothing manufacturer with a sales volume of less than $1,000,000, against a loss of 10.3% in 1932, had an apparent profit of 9.2% in 1933, reduced in 1934 to 5.1%. Profit and loss variations of larger manufacturers are indicated.

The average manufacturer's operating control is sadly deficient through ignorance of actual costs. A true cost formula is seldom applied, and expenses are not properly budgeted. Underselling of own product frequently results.

From the manufacturers' viewpoint, the oustanding problem relates to the high and mounting costs of labor. In their relation to the sales value of merchandise sold direct, labor costs have increased nearly 78% in the period from 1929 to 1934 according to an independent study of random cases. Indirect costs are reflected in disturbances

created in an effort to reduce the direct labor ratio to sales. complex situation creates unfair competitive conditions and the racketeering element creeps in.

Two codes were proposed for the Men's Clothing Industry; one by the Clothing Manufacturers Association of the United States of America, and one by the Industrial Recovery Association of Clothing Manufacturers. The first-named group at the outset appeared to represent about 75 percent of the industry. The real points of difference between the groups arose from the fact that the larger group had contracts with the Amalgamated Clothing Workers of America, while the smaller group was almost entirely independent except for a few employers who dealt with the United Garment Workers' Union.

The two rival groups in the Men's Clothing Industry could not resolve their differences with respect to a plan for administering the Code and for wage provisions for the skilled employees. The Industrial Recovery Association insisted on equal rights and powers in any administrative set-up and would not be satisfied with a minority representation upon any board of control. With respect to wages above the lowest minimum, the minority group insisted upon a flat increase of 20 percent for those earning up to $30.00 per week. On the other hand, the Clothing Manufacturers Association, with labor support insisted upon a minimum for one of the highly skilled groups and a provision that "the existing amounts by which wages in the higher-paid classes, up to classes of employees receiving Thirty Dollars ($30.00) per week, exceed wages in the lowest-paid substantial classes shall be maintained." These differences of opinion were irreconcilable and were resolved only through Administrative action in accepting the code prepared by the Clothing Manufacturers Association.

Trade practice provisions were designed to eliminate "evils" more or less peculiar to the Industry; that is, homework and the practices of consignment and "cut, make, and trim." The last-named prohibition is directed only at retailers. Additional trade practices concerning methods of sale and credit terms, etc., were proposed but were never formally approved. It is significant that the Code made no provision for learners and apprentices despite some demand, and that no satisfactory method was evolved for recognizing the fact that somewhat dis-similar methods of production are employed in the Industry.

CODE ADMINISTRATION--ORGANIZATION AND PROCEDURE

The Men's Clothing Code provided for a Code Authority composed of twenty-three members, made up as follows:

ten members from the Clothing Manufacturers Association;
five members appointed by the last-named association

from other than members of the Association;

two members elected by the foregoing members representative of other employers;

five members representative of labor; and

one member appointed by the Administration.

The Deputy Administrator, in recommending the Code for approval, stated definitely that the "five members" to be appointed by the Clothing Manufacturers Association were to be selected from the Industrial Recovery Association.

The Clothing Manufacturers Association appointed its ten members, but could not prevail upon more than two of the minority group to accept membership. Hence, the remainder of the "five members were selected from the Industry at large. The "two" members were not selected, awaiting, according to the Code Authority, some settlement of the Cotton Garment controversy. The labor representatives were selected by the Labor Advisory Board and the Administration Member was duly appointed.

Formal recognition of the Code Authority was long delayed. The labor representatives were recognized by official order of July 6, 1934, although they had been serving since September of 1933. The labor group of five was made up of three officials of the Amalgamated Clothing Workers and two officials of the United Garment Workers. Fifteen Industry members of the Code Authority were first recognized October 19, 1934, contingent upon a reorganization of the Code Authority. Upon request from the Code Authority, which pleaded probable changes in the Act, this recognition was extended until June 16, 1935.

The Code Authority activities are somewhat departmentalized, The principal departments being the Label Division, the Compliance Division, and the Statistical Division. Much of the Code Authority work was carried on by special committees, typical of which were the Executive Committee, the Compliance and Enforcement Committee, the Committee on Fair Trade Practices, and the II (c) Committee (wage compliance).

The Code Authority was given official authorization to handle "all complaints in the first instance" on January 22, 1934. Actually, the Code Authority at the very outset established its own compliance procedure and went about the adjustment of complaints and alleged violations of the Code. The Code Authority's compliance procedure was very early the subject of Administrative review and some question was raised regarding methods employed. No outward criticism was made, however, of Code Authority compliance procedure.

The label was used by the Code Authority as a device for raising funds and for gaining compliance. The label regulations did not conform in every particular with Administrative Orders X-38 and X-135 relating

to the use of labels, and did not appear to have received formal approval by the Administration. The label regulations provided for the filing of a compliance certificate which set forth information about methods of manufacture, Labels were required on individual garments and were to be attached during the process of manufacture; they were sold to cover a four weeks' production period, and for cash. Labels were withheld or withdrawn only upon authorization of the Compliance Council. This last-named provision, which was closely adhered to, is significant in that the Code originally gave permission to the Code Authority to withdraw labels upon its own findings, subject to Administrative approval.

The Code Authority emphasized the importance of the label in gaining Code compliance and consistently expended substantial sums of money in developing "label mindedness" among consumers. The Code Authority felt restrained in its label advertising by budgetary limitations set up by the Administration.

The Code Authority first made plans for the submission of a budget for Administrative approval in June, 1934. Action was taken in this regard in order to meet label requirements. Nevertheless, the Code Authority early after its inception made plans for an independent audit, at the same time covering employees with a blanket surety policy, and providing for the safekeeping of funds.

The Men's Clothing Code Authority carried on its affairs from September 6, 1933, to June 30, 1934, without an approved budget. A budget was submitted covering the period from July 1, 1934, to December 31, 1934, and tentative approval of this budget was given on January 9, 1935. No approval was given any subsequent budget for the period after December 31, 1934, or for a budget covering the period from September 6, 1933, to June 30, 1934.

The budget for the period July 1, 1934, to December 31, 1934, was approved contingent upon the submission by the Code Authority of a report with reference to the more economical administration of the Code and a study of the equitability of the system of label charges then in effect. This approval was finally extended by Order No. 15-50, pending further order under the same provisions in order to give the Code Authority time to submit a new budget to cover the first half of 1935. Such a budget was finally submitted and was the subject of conferences between the Administration and the Code Authority at the time of the Supreme Court decision relative to N.R.A.

Subject to the conditions outlined in the Order approving the budget for the last half of 1934, the basis of contribution, that is, the label charge, was changed from $5.00 per thousand to $3.00 per thousand to apply to labels for use on certain infants' and children's garments.

The activities of the Code Authority, as already indicated, were

financed by the sale of labels which were purchased by the manufacturers of men's clothing. The total of labels sold from September 6, 1933, to April 30, 1935, was 137,700,579, yielding the sum of $682,368.77. For each of the six-month budgetary periods of July 1, 1934, to December 31, 1934, and January 1, 1935, to June 30, 1935, an estimated net income of $180,000 was provided. This was to provide for expenditures approximating $30,000 per month.

The price at which labels were sold (equal to ½¢ per single garment, plus the actual cost of sewing on the label) was so slow that there was no material addition to the cost of the garment.

In keeping with the powers authorized by Article VIII of the Code, members of the Industry were required to furnish payroll and production data to the Code Authority. An arrangement was entered into with the Bureau of Labor Statistics and the Census Bureau whereby the reports went directly to these Bureaus for certain compilations and tabulations before being forwarded to the Code Authority. This arrangement appears to have been satisfactory to all concerned. The reports made to the Code Authority were used almost entirely for compliance purposes. Industry statistics were not reported regularly to the Administration.

Most of the Interpretations recommended by the Code Authority and approved by the Administration had to do with the classification of workers between employee groups mentioned in the Code; that is, manufacturing, non-manufacturing, supervisory, cutter, and off-presser. These interpretations were found necessary because certain employees did not fall clearly into any one of the classifications. The need of a definite classification was further emphasized by the varying rates of pay, methods of payment and hours of work peculiar to the respective groups. For example, Administrative Order No. 15-23, dated July 19, 1934, provided that: "A worker who cuts a piece of lining from the bolt and uses a pattern as a guide for cutting said lining, is a cutter within the definition." This interpretation placed the lining cutter in the category of the "cutter"--the highest-paid manufacturing class recognized in the Code, and entitled to pay of $1.00 per hour. Otherwise, this lining cutter might have been paid in some plants at a lower rate of pay, with the 40 cents per hour minimum as the base rate.

The most significant interpretation made by the Code Authority and belatedly given Administrative approval was that "the words 'substantial classes' as used in Article II, subdivision (b) are to include 20 percent of the total number of employees employed in any establishment." This interpretation found frequent use in the enforcement of the clause concerning wages above the minimum, and was the subject of much controversy and criticism within the Industry.

The records indicate the lack of complete cooperation between the Administration and the Code Authority with respect to interpretation procedure. This was due in part to delay in working out general N.R.A. procedure and in part to neglect upon the part of the

Administration. For instance, certain interpretations recommended by the Code Authority early after its inception were not acted on by Administration officials until December, 1934. Others acted on by the Code Authority early in March, 1934, did not receive Administration approval until the middle of July, 1934.

LABOR UNDER THE CODE

The Men's Clothing Code provided for a 36-hour week except for certain groups such as repair shop crews, engineers, office staff, etc., who could not work in excess of an average of 40 hours per week during any year. The tailor-to-the-trade and uniform manufacturers branches of the Industry, because of the Industry, because of the highly seasonal character of their operations, were allowed overtime at regular rates for specific periods determined by the Code Authority.

Both codes originally proposed for the Industry asked for a 40-hour week maximum, on the assumption that this would absorb completely the unemployed attached to the Industry. The Research and Planning Division of N.R.A., however, at the time of the writing of the Code, concluded that neither a 40-hour week nor a 35-hour week would reemploy the idle attached to the Industry, unless there was a considerable increase in demand.

As provided in the Code, the Tailors-to-the-Trade and the Uniform Manufacturers were granted overtime regularly each peak season. This overtime was extended ordinarily in the amount of four hours extra per week for a period of from eight to ten weeks at regular rates of pay on condition that the applicant give evidence of running to capacity.

The entire Men's Clothing Industry, excepting Tailors-to-the-Trade and Uniform Manufacturers, was granted overtime in the amount of four hours extra per week beginning March 4, 1935, and ending April 6, 1935. This overtime was granted upon the request of the Code Authority and for the reasons (a) of late delivery of woolens and (b) the excess of fancy models which unbalanced highly skilled sections of the Industry. This exemption was protested by the Industrial Recovery Association. Also the Philadelphia Joint Board of the Amalgamated Clothing Workers protested the exemption on the grounds that the extra hours were not needed while workers were yet unemployed and that it was merely an opening wedge for a longer work week.

In the few exemptions granted from hours provisions to groups and individuals no distinction was made between employee hours and machine hours. All requests for employee hours exemptions have carried automatically, of course, a request for machine hours exemptions. The Industry has operated customarily on a one-shift basis and the 36-hour week established has not created a demand for

a double shift. The Code Authority consistently refused to recommend exemptions from the labor provisions of the Code, with but one or two exceptions. The most notable of which are the cases of Puerto Rico, where the competition meant little, and five New Orleans firms which produced cotton garments in competition with firms operating under the Cotton Garment Code. Only a few additional exemptions were granted, and those for short periods covering emergency situations. Most of the denials of exemptions from hours provisions were denied on the grounds of the surplus man power in the Industry.

The Men's Clothing Code as originally adopted provided for a minimum wage of forty cents per hour for manufacturing employees and $14.00 per week for non-manufacturing employees in the Northern area and 37 cents per hour and $13.00 per week respectively for the Southern area. For two higher payed occupational groups, cutters and off-pressers, there were set minimums of $1.00 and 75 cents per hour respectively. The Code provided, furthermore, for the setting-up of a Committee to administer the wage provisions.

The codal provisions respecting pay were amended to allow the employment of apprentices at 70 percent of Code wages for the period of three months from December 11, 1933, to permit readjustment to the Code's abolition of home work. Handicapped workers could be employed at 70 percent of the Code minimum wages. Also, the Code was amended to allow lower rates of pay than originally provided for workers on certain cotton or part cotton garments.

During the first week of February, 1935, a hearing was held in Washington relative to proposals from the Code Authority that classified rates of pay be set up in the Men's Clothing Industry. The amendment as proposed by the management members of the Code Authority would classify workers into about 15 classes with rates of pay, including those now in the Code, of $1.00, 75 cents, 65 cents, 50 cents, and 40 cents. This amendment was designed chiefly as a substitute for the codal wage provision which was found most difficult to enforce; namely, that "the existing amounts by which wages in the higher-paid classes, up to classes of employees receiving Thirty Dollars ($30.00) per week, exceed wages in the lowest-paid substantial classes shall be maintained."

As in the case of hour provisions, the Code Authority declined to grant exemptions from the wage provisions of the Code. Puerto Rico again appears an exception, and the only one. The Code Authority steadfastly refused to consider an apprenticeship provision for the Code, arguing that the unemployed in the Industry must first be cared for.

The Men's Clothing Code Authority was very aggressive in the matter of enforcement and efforts to gain compliance. A comprehensive analysis of compliance is not possible inasmuch as the greater part of alleged violations were adjusted by the Code Authority. Deputy

Administrator M. D. Vincent made a complete survey of the enforcement activities of the Code Authority up to August 30, 1934, and reported that that Code Authority's investigators had covered all the important markets impartially and that the provisions of the Code had been enforced without discrimination. The only adverse criticism was directed at the Code Authority's strongly worded letters to alleged violators of the Code.

In the matter of compliance the Code Authority experienced its greatest difficulty with the provision relating to wages of the higher-paid classes. Much confusion and dissatisfaction developed in certain quarters of the Industry because of the somewhat arbitrary manner in which it was necessary for the Code Authority to interpret and apply clause II (b) of the Code, which relates to the wages of the most skilled groups. This confusion was increased by the fact that the Administration was late in giving approval to interpretations relating to clause II (b). In trying to enforce II (b), the Code Authority often had to resort to compromise or arbitration, sometimes with Administration aid, which in turn gave rise to the criticism that unusual and unjustifiable powers were assumed, as for instance in the case of L. Grief and Brother, of Baltimore, Maryland.

Pre-Code statistics on men's clothing are not directly comparable to statistics collected under the Code, yet certain compilations based on payroll and production data give some indication of trends in the Industry. The Code Authority estimated that approximately 140,000 workers were employed during the March peak season of 1934 as against 108,000 for the same season of 1933. From March, 1934, to September, 1934, however, there was a reduction of about 15 percent in the number of persons employed.

Hourly wages for all manufacturing employees, including cutters and off-pressers, in July, 1934, averaged 67.1 cents per hour. In March, 1933, the average was approximately 42 cents per hour. Hourly earnings reached their peak in the Industry during 1924--76 cents per hour. During August, 1934, manufacturing employees worked 27.8 hours per week on the average, while weekly earnings averaged $18.63. It is understood that the Spring season of 1935 was comparable to that of 1934, with around 140,000 employed. This is in part exolained by the slowness of the Fall season of 1934.

TRADE PRACTICES

The principal fair trade practice provisions of the Men's Clothing Code relate to sale of garments on consignment, the practice of "cut, make, and trim," and selling below cost.

Consignment selling was prohibited in the Men's Clothing Industry with the full approval of all branches of the Industry. It was generally agreed that consignment selling in the long run tended to injure both

the seller and buyer whether financially strong or weak and led to the breaking-down of labor standards.

Five exemptions were granted from the provisions prohibiting consignment selling; the principal in point of dollar volume was that of S. Bakransky and Sons, Inc., Philadelphia, Pa. All exemptions were granted for the purpose of allowing the participating firms to prepare in an orderly way for a change to normal selling.

The "cut, make, and trim" practice was outlawed by the Code insofar as retailers were concerned. All branches of the Industry were united in the opinion that the "cut, make, and trim" practice was pernicious and should be stamped out. It was argued that the practice made impossible an orderly supervision of hours of work, wages and sanitary working conditions in the plants so engaged.

No exemotions were granted from the "cut, make, and trim" clause. On the contrary, the Code Authority made repeated efforts to strengthen this clause by making it applicable to wholesalers and jobbers as well as retailers. Sears, Roebuck and Company made strenuous efforts to obtain exemption, but was denied after public hearing.

The Code carried in Article X a prohibition against selling below cost. Soon after its organization, the Code Authority after considerable study and investigation submitted for Administrative approval a cost formula designed for use throughout the Industry. The formula provided, with explanations, that the total cost of a garment should be arrived at by adding to the prime cost an amount equal to 5 percent of such prime costs for General Manufacturing Overhead, and by adding to the new total so obtained, an amount equal to 11.11 per cent for Selling and Administrative Overhead. No provision was made for profit, but the percentages were to be mandatory.

After considerable delay, the Administration finally advised with respect to the proposed cost formula that the Code would not permit the stipulation for the entire Industry of a mandatory percentage for overhead, regardless of the merit of the percentages chosen. The final outcome was that the Code Authority made no effort to enforce the selling below cost provisions. Wherever complaints of violations of trade practice provisions were filed, an investigation of the alleged violation was made by the Code Authority to discover whether or not the labor provisions of the Code were being observed.

After many conferences with retailers and wholesalers, the Men's Clothing Code Authority was able to formulate certain fair trade practice provisions which met with the approval of the groups concerned. These proposed fair trade practices were submitted to the Administration for consideration, and related in the main to: discounts, terms of sale, return of goods, sales at retail, labeling of goods (quality), and cash advertising allowances.

CHAPTER I

DEFINITION AND SCOPE OF INDUSTRY

I. CODE DEFINITION AND JURISDICTIONAL DISPUTES

The original codal definition of the Men's Clothing Industry reads:

> "The term 'Clothing Industry' as used herein is defined to mean the manufacture of men's, boys', and children's clothing, uniforms, single knee pants, single pants, and men's summer clothing (exclusive of cotton wash suits)."

The above definition was the result of several conferences called to resolve the differences of opinion as to what the code for the Industry should properly cover. It early developed that the definition for the Men's Clothing Industry was in conflict with proposed and oftentimes accepted codal definitions for other industries. Among the industries having codal definitions or suggested codal definitions in conflict with the definition of the Men's Clothing Industry are found the Cotton Garment Industry, the Merchant and Custom Tailoring Industry, the Rainwear Division of the Rubber Industry, the Textile Examining, Shrinking and Refinishing Industry, the Shoulder Pad Manufacturing Industry, the Slit Fabric Manufacturing Industry, the Coat Front Manufacturing Industry, the Infants' and Children's Wear Industry, the Knitted Outerwear Industry, and tailoring shops operating under the authority of the United States Government.

The Men's Clothing Code Authority became embroiled in many jurisdictional disputes and controversies, and before proceeding to an analysis of individual conflicts, attention is directed to the following resolution drawn up March 2, 1934, by George L. Bell, Executive Director of the Men's Clothing Code Authority, and proposed to the Code Authority at the "Substance of Resolution for Code Authority to Submit at Conferences of Code Authorities at Washington Next Week." (*) This resolution indicates rather clearly, after about six months' experience, the Code Authority's feelings with respect to the extent, nature, and general result of the many and seemingly interminable jurisdictional disputes. The resolution expressive of the Code Authority's opinion is as follows:

> "WHEREAS, this actual experience has disclosed the fact that practically all the difficulties and lack of ability to enforce the provisions of the Code have been brought about by jurisdictional disputes, which have permitted entire sections of the industry and large numbers of manufacturers to plead immunity from enforcement of the Code because of largely unwarranted claims that they were subject to some

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(*) Bound Copy of Resolution Proposed by George L. Bell, Executive Director, (Men's Clothing Code Files.)

other code that has been promulgated, or to some proposed code that is under consideration, and ***

"THEREFORE, be it resolved that the Men's Clothing Code Authority, as a result of this actual experience which can be substantiated by factual evidence, strongly urges and recommends that these jurisdictional disputes and attempts to promulgate innumerable codes for small branches of the industry which are incapable of enforcing the provisions of a code, be terminated by an excutive order designating the Men's Clothing Code as the basic code covering all manufacturers of men's outer clothing; with the Men's Clothing Code Authority as the supreme administrative body; with special provisions, where necessary, for subdivisions of the industry; and with sub-committees, representing the interests of such subdivisions, for presenting and handling their problems with the Men's Clothing Code Authority.***

"This resolution is tendered because we believe that it is highly impracticable, if not impossible, to define properly and clearly subdivisions of the industry that claim to be entitled to separate codes.

"An unconscionable amount of time has been consumed by members of the Men's Clothing Code Authority and by members of the staff in connection with innumerable hearings and conferences on such proposed codes as the merchant tailors, the canvas coat front makers, the shoulder pad makers, the infants' and children's wear manufacturers, etc., etc. These hearings and conferences, stretching over many months, made it clear that the National Recovery Administration finds it practically impossible to make clear code definitions which will insure that everyone connected with any part of the Men's Clothing Industry is included under some fair competitive code. Furthermore, the actual experience of attempting to classify various garments through the medium of the Inter-Code Committee with the Cotton Garment Code proves that months and months go by without any action and that in the interim literally hundreds of manufacturers escape the application of any code to their business."

A. The Cotton Garment Industry. (*)

The jurisdictional conflict between the Men's Clothing Industry and the Cotton Garment Industry was of major consequence, and because of the complicated nature of the problem, as well as its importance to both industries, a detailed consideration of this problem with supporting data will be found in Appendix C.

(*) Prepared by Walter E. Woodford, Jr., member of the Men's Clothing Industry Study group, Textile Unit, Industry Studies Section, Division of Review, NRA.

Prior to the last few years, Cotton Garment plants confined their production mostly to overalls, work pants, and wash suits for use as work clothing only, and Men's Clothing plants produced the great majority of separate trousers of wool or part wool materials. But the recent fashion trend toward the use of separate coats and trousers, the marked improvement in appearance, style, and durability of cotton and cotton mixture fabrics, at prices far below those of woolen fabrics, and the increased interest in sports and outdoor life throughout the entire country, have created a large demand for separate sports and dress trousers, at the expense of the work pants and overalls of former days.

Cotton Garment Manufacturers, to meet this lessening demand for overalls commenced the production of better line of separate trousers, in competition with the regular clothing factories. They found that such trousers, as well as mackinaws, melton jackets, play suits, and similar garments, could be made without changing their plant equipment, personnel, or organization, could be sold through the same channels of distribution, and enabled them to keep their factories in operation throughout practically the entire year.

When the Codes of Fair Competition were formulated and approved in 1933, this competitive and overlapping situation became a major problem to the manufacturers of both industries, due in a large measure to the more favorable wage and hour provisions in the Cotton Garment Code as originally approved, and the production of work and dress pants by prison labor at even lower wages.

This jurisdictional controversy, especially on single pants and wash suits, thus began with the effective dates of the Codes, and was never satisfactorily adjusted in spite of the continuous efforts of the National Recovery Administration, the Code Authorities, and the Industry members to settle the conflict by amending definitions, wages, hours, etc., of both Codes.

This Study is aimed to trace, in chronological order, the various steps taken in attempting to adjust this problem, the viewpoints of the interested factions, the objections raised to the amendments adopted, and the final plan proposed just before the Supreme Court decision of May 27, 1935, which from all indications would have met with the approval of the majority of both industries and would have been successful in placing the production of these disputed garments on a fair and equitable basis under both Codes.

1. The Codes as Originally Approved.

The Men's Clothing Code, approved August 26, 1933, established a 36-hour maximum week, a 37¢ per hour Southern and 40¢ per hour Northern minimum wage, with higher classified wages for cutters and off-pressers, and 37¢ per hour rate for workers on single knee pants.

The Cotton Garment Code, approved November 27, 1933, established a 40-hour maximum week, a 30¢ per hour Southern and 32½¢ per hour Northern minimum wage, and no classified wages.

Definitions in both Codes were incomplete and conflicting, the Clothing Code including "single knee pants, single pants," and the Cotton Garment Code including "men's and boys' pants in chief content of cotton."

Thus, with single pants included in both Codes, and hour and wage advantages permissible in the Cotton Garment Code, conflicts were inevitable on pants and wash clothing. Clothing manufacturers immediately protested that Cotton Garment manufacturers were producting pants and wash suits at much lower consts, and were seriously threatening their buisness on such garments.

2. Amendments of December 18, 1933.

A Public Hearing was held November 27, 1933, on wash suits. A group of five New Orleans firms, manufacturing cotton and linen wash suits and operating under the Men's Clothing Code, claimed their garments were actually sold in competition with cotton wash suits made by Cotton Garment manufacturers, and that the higher wages and shorter hours of the Clothing Code imposed an unjust hardship on them. The Goodall Company, manufacturers of "Palm Beach" suits, subnitted similar arguments.

The Cotton Garment manufacturers, on the other hand, claimed that their cheap wash suits, produced in quantity lots, like overalls and work clothing, did not compete with the higher-priced suits sold for dress use; and the Men's Clothing Code Authority argued that all wash suits of the better types used for dress purposes were summer clothing and should be made under the same conditions as all other summer clothing such as tropical worsteds, silks, silk and wool mixtures, etc.

On November 28, 1933, a Public Hearing was held on single pants. Manufacturers of cotton single pants argued that the low selling prices of their garments necessitated their production under the lower wage scales of the Cotton Garment Code. Manufacturers of wool pants, most of whom also made some cotton pants, claimed that all pants were articles of Men's Clothing, and should be under the Clothing Code; that a pants factory could not be successfully operated under two Codes; and that many cotton pants plants were greatly increasing their production of wool pants, to the decided detriment of those manufacturers operating under the Men's Clothing Code.

These hearings and subsequent conferences failed to produce any satisfactory agreements between the two industries, and the National Recovery Administration inaugurated the following changes in the two Codes, approved on December 18, 1933.

(a) Men's Clothing Code.

Definition on these garments was changed to "single pants (except work pants or single pants when made in work-clothing factories) and men's summer clothing (except men's wash suits of 100% cotton content, when made in work-clothing factories in conjunction with work clothing)." Minimum wage to workers on single pants was to be 34¢ per hour in the South and 37¢ per hour in the North. Minimum wage to workers on men's wash suits of 100% cotton content was to be 34¢ per hour in the South and 37¢ per hour in the North; to workers on other summer clothing, 37¢ per hour in the South and 40¢ per hour in the North. Minimum wage to cutters on all men's wash suits and/or summer clothing was to be 85¢ per hour and to off-pressers of such garments 60¢ per hour in the Southern section of the Industry.

(b) Cotton Garment Code.

Definitions on these garments were changed to "(10) men's and boys' pants, when made in work-clothing factories," and "(14) men's wash suits of 100% cotton content, when made in work-clothing factories in conjunction with work clothing." Minimum wage to workers on men's wash suits of 100% cotton content and/or men's and boys' pants when made in work-clothing factories in conjunction with work-clothing or work pants was to be 34¢ per hour in South, and 37¢ per hour in North.

An Inter-Code Committee of seven (7) persons was appointed to administer and supervise enforcement in respect of cotton wash suits, and/or single pants.

It was hoped that these Code changes would tend to clear up this serious competitive situation between these industries, but further study and recommendation was deemed necessary, hence the appointment of the Inter-Code Committee.

3. The Inter-Code Committee

The Committee first met on January 5, 1934, and the problem of classifying single pants was approached primarily from the standpoint of fabric. After numerous meetings and votes on disputed fabrics, this Committee recommended to the Administration a further amendment to the Cotton Garment Code.

The Inter-Code Committee devoted its entire time to the pants question, so the men's wash suit problem was handled in a different manner. After continued protests from the New Orleans manufacturers, Special Deputy Administrator Morris Greenberg was sent to New Orleans to make a complete survey of the situation, and submit recommendations. As a result, Administrative Order No. 15-8 was approved February 23, 1934, permitting these firms to work an additional four (4) hours per week, and an agreement was made with the Men's Clothing Code Authority permitting them to employ up to 30% sub-standard workers and exempting their plants from the application of Article II (b).

4. Amendment to the Cotton Garment Code--March 15, 1934.

In accordance with the recommendations of the Inter-Code Committee, this amendment was approved setting up a minimum rate of 30¢ per hour in the South, and 32½¢ per hour in the North, for the production of pants of certain specified fabrics, such as denims, coverts, ducks, etc., and rates of 34¢ and 37½ on certain shads of curduroy and all other fabrics except those listed under the other classification. It also abolished the Inter-Code Committee and transferred all its powers and duties to a Special Administrator for further study and recommendations. Godfrey Bloch was appointed as Special Administrator.

It soon became apparent that this attempt to settle the question by classification of fabrics would not solve the difficulty, and that it would be impractical and impossible to attempt to force manufacturers to pay higher wages on certain types of cloth than on others, when both were worked on by the same operators. Many manufacturers made no effort to differentiate between fabrics, and continued to pay the lower wage scales on all garments. Numerous complaints of unfair competition and objections to the new amendment were filed with the Administration.

(a) Report of the Special Administrator.

Mr. Bloch and his staff found it impossible to accomplish much in administering or supervising enforcement, but they did make a careful investigation and collected very complete production statistics and data. He recommended that all single pants be put together, if possible, under one Code or division of one Code, on a 36-hour basis, under Cotton Garment Code wages. If this should prove impractical, all wool pants should be made under the Men's Clothing Code and all cotton pants under the Cotton Garment Code, at 34¢ and 37½¢ minima and 36¢hour maximum, and that men's wash suits be produced under these same provisions.

5. Amendment to Cotton Garment Code--August 21, 1934.

Article III of the Cotton Garment Code required a report within 60 days as to whether the 40-hour week was resulting in sufficient increased employment. Because this report had not been made, and because the 40-hour week of the Cotton Garment Industry had been subject to much criticism and complaint from the other garment trades, a Public Hearing was called for June 18, 1934, to consider reducing the hours to 36 and also to consider the applications of the Men's Clothing Code Authority and the Dress Code Authority for changes in definitions on certain garments. The hearing continued for five days (the first two days devoted to the hours question, the remainder to the overlap problem), and in view of the pronounced hostility of the Cotton Garment manufacturers it was not deemed advisable to make further changes in definitions, so no action was taken on the recommendations of Special Administrator Bloch as to pants and wash suits.

A reduction in hours, however, was considered essential, so this Amendment of August 21, 1934, without the approval or consent of the Code Authority, placed the Cotton Garment Industry on a 36-hour week basis, with minimum weekly wage rates of $12.00 in the South and $13.00

in the North, and raised piece rates by not less than 10%. This Amendment was to become effective October 1, 1934. This equalization of hours and wages should have been a most important factor in the settlement of the unfair competitive situation between the two industries on the production of pants and wash suits.

However, due to the flood of protests received from the Cotton Garment Industry, particularly the Southern manufacturer, two stays of this Amendment were issued by the Administration, delaying the effective date until December 1st. Then, on December 1, 1934, a certain group of Cotton Garment manufacturers filed an injunction suit against the National Recovery Administration, seeking to restrain the enforcement of the new minimum wage and 36-hour week provisions. So that from the approval date of this Amendment, August 21, 1934, until the termination of this injunction suit on January 23, 1935, no actual progress was made towards the settlement of this overlapping competitive controversy between the two industries.

6. Developments from December 1, 1934, to Supreme Court Decision, May 27, 1935.

However, the Administration, fully realizing the seriousness of the situation and the need for some constructive action, worked on this problem continuously from August, 1934, on, and Deputy Administrators Oppenheim and Greenberg devoted a great portion of their time to conferences with Industry members and Code Authority members in an effort to effect some solution.

In October, 1934, Deputy Administrator Greenberg submitted a proposal by which all wool pants should be made under the Men's Clothing Code and all cotton pants under the Cotton Garment Code, with equalized working conditions as to hours and wages.

In November, Deputy Administrator Oppenheim drew up an order, similar in most respects to Deputy Administrator Greenberg's, and submitted it to the industries. The Southern manufacturers, as usual, objected most strenuously, but the Associated Pants Manufacturers, representing the majority of Cotton Garment plants manufacturing semi-dress pants, approved the plan in most of its details.

No definite action could be taken until the 36-hour week for the Cotton Garment Industry was definitely made effective. But after the termination of the injunction suit, Deputy Administrator Oppenheim again submitted this pants order (with several other changes, including a provision for an Exemption Committee), and the Cotton Garment Code Authority at their meeting on March 11, 1935, approved this order.

Southern manufacturers again protested vigorously, and action was again held up. The Cotton Garment Code Authority, at its meeting on April 30, 1935, appointed a committee to confer with the Men's Clothing Code Authority and work out the details of the order, so that same could be put into effect at the earliest possible date.

In the meantime, Deputy Administrator Oppenheim, after conferring with various Industry members, had suggested a further provision for this order which would allow Cotton Garment plants to make a small percentage of their pants production of wool, and Men's Clothing plants to make a percentage of their pants production of cotton, and still operate under only their own Codes.

The majority of both industries were reacting so favorably to these latest proposals that, at the time of the Supreme Court decision, it appeared to be only a question of a few more weeks before these amendments would have been officially approved and added to these Codes, and this jurisdictional controversy over the production of single pants and wash suits finally and definitely settled in a manner satisfactory to all parties concerned.

The inequality of the hour and wage provisions, of course, was the principal cause of the controversy, and with incomplete definitions of the garments in question in the original codes, conflict was bound to occur. Some of the earlier changes made, such as establishing different wage rates for different fabrics, were approved, it would seem, without sufficient consideration of all angles of the problem, and were soon found impractical and impossible of enforcement; but the final solution also, of course, was much easier to achieve after wages and hours had been equalized.

B. Merchant And Custom Tailoring Industry.

In the minds of members of the Men's Clothing Code Authority and the Administration there was some jurisdictional conflict between the definitions of the Merchant and Custom Tailoring Industry Code and the Men's Clothing Industry Code. On September 27, 1934, we find the Administrator writing the Code Authority:

> "You are doubtless aware that the definition of the industry in the Merchant and Custom Tailors' Code and the Men's Clothing Code are in conflict."*
>
> "It appears that the Men's Clothing Code should be amended sothat the definition of the industry will exclude those who are included in the definition of the industry for the Merchant and Custom Tailors' Code. Will you kindly inform me what action has been taken or is contemplated by the Code Authority in regard to this amendment?"

Also, as late as January 2, 1935, we find the Administration again advising the Code Authority that the hearingscheduled for January 21 offers an opportunity to clear up differences between the industries.

The Men's Clothing Code Authority had opposed the granting of a code to the merchant tailors in the outset, but seeing that such objections were to no avail, insisted that the Merchant and Custom Tailors' Code provide a definition "so as not to allow anyone who is in fact a 'tailor to the trade,' or in reality a manufacturer to come under the provisions of that code." **

The definition of the Merchant and Tailoring Industry as approved on July 31, 1934, in attempting to arrive at a clear-cut distinction between its membership and that of the Men's Clothing Industry, resorted to a simple statement that "the industry is not intended to include members of the Men's Clothing Industry generally known in that industry by the terms of 'tailors-to-the-trade,' 'wholesale tailors,' or 'direct to the consumer wholesale tailors,' or 'special order houses.'" This statement or the need for the statement calls attention to the fact that there is essentially little difference between the operations and nature of the business carried on by merchant tailors and the aforementioned groups which belong to the Men's Clothing Industry. The essential but easily confused or misjudged difference appears to lie in the assumption that the product of merchant tailors is almost entirely hand-made and hence

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(*) Letter dated September 27, 1934, from M. D. Vincent, Assistant Deputy Administrator, to David Drechsler, Secretary, Men's Clothing Code Authority. (Men's Clothing Code Files.)

(**) Men's Clothing Code Authority report of Committee on Compliance and Enforcement, March 2, 1934. (Men's Clothing Code Files.)

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of a superior quality and workmanship. *

On the other hand, it is recognized that the Merchant and Custom Tailoring definition did attempt to exclude those recognized as owing allegiance to the Men's Clothing Code, while the definition of the Men's Clothing Industry was drawn so as to make no recognition or exclusion of the Merchant and Custom Tailors.

This jurisdictional conflict was intensified by the fact that functionally the Merchant and Custom Tailoring Industry overlaps not only with the Men's Clothing Industry, but with the Retail Trade as well.

> "As a matter of fact, the average consumer is not aware, in most cases, when he purchases a so-called 'custom-made' suit, whether he is buying from the stock of the retailer, from a merchant tailor, from a tailor-to-the-trade house or a special order house of the mass production clothing factory. Actually, from the consumer's viewpoint, unless he had some actual acquaintance with the industry, there is no substantial difference in the assemblage of the garment which he purchases from any one of the three sources mentioned above. Therefore, it becomes apparent that any code definition of the Merchant and Custom Tailoring Industry, must, of necessity, be arbitrary; and being arbitrary, must engender hardship and controversy somewhere."**

The Amalgamated Clothing Workers of America, at public hearings held January 27, 1934, in consideration of a proposed Merchant and Custom Tailors' Code, through their representative, Hyman Blumberg (member of the Men's Clothing Code Authority), objected to any proposal establishing a difference between the tailor-to-the-trade houses and the merchant tailors as defined in the code under consideration. The tailor-to-the-trade houses were recognized definitely as being under the Men's Clothing Industry Code, but the point at issue so far as this union representative was concerned was that certain workers under both codes were doing similar work and to a certain extent were in direct competition with each other, and hence were considered subject to Amalgamated organization or affiliation if already organized. This bond of economic interest upon the part of workers in custom tailoring shops and those producing "ready-to-wear" clothing has been recognized subsequent to the termination of the codes by the announcement of a working agreement between the Amalgamated Clothing Workers and the Journeyman's Tailors Union.

(*) Administrator's report to the President recommending approval of the Merchant and Custom Tailoring Code. See Approved Code No. 494.

(**) Code History Volume I, Page 89-91, Merchant and Custom Tailoring Industry.

The jurisdictional dispute between the Men's Clothing Industry and the Merchant and Custom Tailoring Industry, it appears, sometimes lead to the disorganization of entire market areas. As evidence of this, attention is directed to the following extract from a letter of complaint written May 7, 1935, to Morris Greenberg, Executive Director of the Men's Clothing Code Authority, by William Stanley, Executive Secretary, Contracting Tailors Association of California.

> "In this particular market, because of the peculiar character of the business, we have here conditions entirely different from those in other sections of the country.
>
> "In San Francisco and Oakland there are a few merchant and custom tailors who for the reason that their garments are being cut with the use of patterns cut for each individual customer and made according to the specifications of the Merchant and Custom Tailoring Code, are really justified in operating under the jurisdiction of that code and use its labels.
>
> "With these few exceptions, the tailoring business is done principally by what are known as 'so-called merchant tailors', who in many instances cut their garments with the use of block patterns and who in every instance have their garments made in contract shops where special machines are in operation. These tailors should operate under the jurisdiction of the Men's Clothing Code, but in some instances they do not recognize or abide by any code and are continuing to free-lance. This is made possible due to the fact that there are two codes in one industry and it allows these tailors to switch from one code to the other and at the same time recognizing neither. This causes confusion and is very detrimental to the industry in general, especially as one code is being enforced and the other is not."

C. Textile Examining, Shrinking, and Refinishing Industry.

The Code for the Textile Examining, Shrinking, and Refinishing Industry, approved August 6, 1934, concerns an industry which is strictly of the service character in its relations to the Men's Clothing Industry. The possibility of conflict of definition arose from the fact that certain clothing manufacturers performed in their own shops the functions covered by the code definition for textile examiners. The Textile Examiners' Code did not specifically exempt operations carried on in clothing factories, yet it implied a coverage of independent establishments by referring to operations on "woolen and other woven fabrics owned by others." It appears at any rate that difficulties arising between these two industries, if any, were not brought to the attention of the Administration.

D. Shoulder Pad Manufacturing Industry and Slit Fabric Manufacturing Industry.

Both the Shoulder Pad Industry and the Slit Fabric Industry are service industries to men's clothing manufacturing. As in the case of textile shrinking, certain of the products or processes performed under these codes were likewise performed in the plants of men's clothing manufacturers. In the case of these codes, however, the men's clothing group influenced the writing of definitions of the industries in question so as to i corporate the following qualification: "The articles enumerated herein when made in clothing factories and used in connection with the garments manufactured in such factories are exempted from the provisions of this code."* In order that production of shoulder pades outside and inside men's clothing plants be on the same competitive levels, the Men's Clothing Code Authority also used its influence in obtaining for the Shoulder Pad Code a maximum of 36 hours per week and one shift per day whereas longer hours and two shifts had been proposed by the Industry. ** The Slit Fabric Industry Code likewise provided for one shift of employees per day, but allowed 40 hours per week.

E. Coat Front Manufacturing Industry.

A code for the Coat Front Manufacturing Industry, supplemental to the Men's Clothing Industry Code, was submitted to the Administration but was never approved. This code as revised for hearing on June 11, 1934, was designed to cover the "Coat Front Industry." The term "coat front" was "defined to mean a combination of some or all of the following materials: canvas, hymo, haircloth and felt, for the purpose of re-inforcing, shaping, and facilitating the tailoring of men's coats." The code definition likewise provided that such production of coat fronts as took place in clothing establishments for use in garments manufactured therein should be exempt from the Coat Front Code.

Negotiations respecting this supplemental code were carried on for some time between its proponents and representatives of the Men's Clothing Code Authority.....The Committee on Compliance and Enforcement of the Men's Clothing Code Authority finally reported on March 2, 1934, that a successful arrangement had been completed whereby the coat front manufacturers agreed to come under the Men's Clothing Code. It was arranged that the Men's Clothing Code Authority should supervise the enforcement of this code in return for an income of one-tenth cent per pair of fronts to be collected by the Coat Front Industry's Association.

(*) Report of Committee on Compliance and Enforcement of Men's Clothing Code Authority, March 2, 1934. (Men's Clothing Code files.)

(**) Report of Committee on Compliance and Enforcement of Men's Clothing Code Authority, December 8, 1933. (Men's Clothing Code files.)

Despite this seeming agreement between the Men's Clothing Code Authority and the coat front manufacturers, we find on November 9, 1934, the Empire Coat Front Association inquiring as to what the Administration intended to do about including its membership with that of the Men's Clothing Code, stating that they still desired to be included in such code "with appropriate exceptions similar to those previously agreed upon." * This inquiry was acknowledged with the advice, "We are making a special study of codifying small industries and when finished shall be glad to consult with you." ** There appear to have been no subsequent developments in the direction of codifying the Coat Front Manufacturing Industry. It is observed also that the N.R.A. files show no complaints arising from friction, if any, between the Coat Front and the Men's Clothing Industries.

F Infants' and Children's Wear Industry.

As indicated by the definition of the Men's Clothing Industry, it was provided that certain children's wearing apparel (among which were boys' Eton and Rugby suits) were to be manufactured under the Men's Clothing Industry Code. The proposed Infants' and Children's Wear Code originally claimed jurisdiction over the same products, but it was finally provided that manufacturers of Eton and Rugby suits might elect to operate under the Infants' and Children's Wear Code, provided, however, that they comply with all the labor provisions of the Men's Clothing Code.*** It is clear that this arrangement was the outgrowth of efforts upon the part of certain manufacturers to select the Code with the most liberal labor provisions. The adequacy of the attempts to solve this overlap problem would appear to depend on the degree of compliance obtained by the respective Code Authorities.

G. Knitted Outerwear Industry.

On June 1, 1934, the Men's Clothing Code Authority made a vigorous protest against the proposal to amend the Knitted Outerwear Industry Code definition to cover "the manufacturer of knitted outerwear apparel for men---and/or the manufacture of ski suits---whether knitted or made of purchased knitted material or other material---etc."**** The Men's Clothing Code Authority Secretary took the position that "this amendment seeks to take from the jurisdiction of the Men's Clothing Code outer

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(*) Letter dated November 9, 1934, to Morris Greenberg, Deputy Administrator, from Lester Lyons, Secretary, Empire State Coat Front Association. (Men's Clothing Code Files).

(**) Letter dated November 20, 1934, to Lester Lyons, from S. H. Ourbacker, Assistant Deputy Administrator. (Men's Clothing Code Files.)

(***) Letter dated April 23, 1934, from John R. Beecroft, Assistant Deputy Administrator, to George W. Elliott, Chamber of Commerce, Philadelphia, Pa. (Men's Clothing Code Files.)

(****) Letter dated June 1, 1934, from David Drechsler, Secretary, Men's Clothing Code Authority, to General Hugh S. Johnson. (Men's Clothing Code files under Code Classification O-Z)

garments which are manufactured by the members of the Men's Clothing Industry under the Men's Clothing Code." The protest "is made formally in behalf of the Men's Clothing Code Authority--"on the ground that the apparel quoted above, and made part of the proposed amendment, rightfully belongs under the Men's Clothing Code."

This jurisdictional dispute was never entirely resolved it appears upon examining the opinions of members of the Legal Division of N.R.A. found in comments relative to the classification of a firm "which purchases knitted cloth from knitting mills and then manufactured this knitted cloth into men's and boys' sweaters."

A member of the N.R.A. legal staff states with respect to the above classification, "subject to confirmation by the Classification Division in Washington":

> "I have examined the Codes for Knitted Outerwear Industry, Men's Clothing Industry and the Coat and Suit Industry in an effort to find the Code applicable to the activities of the subject company. The Knitted Outerwear Code expressly provides that it does not include the manufacture of garments made of purchased knitted fabrics and the Code for the Men's Clothing Industry apparently was intended to include only men's and boys' suits, coats and pants.---
>
> "---I doubt if there is any approved code applicable to the activities of the subject company." *

A review of this opinion by a member of the Legal Division of N.R.A. attached to the Men's Clothing Industry Code reveals the comment:

> "The definition of the industry in the Men's Clothing Code does not expressly exclude or include sweaters, such as mentioned in said memorandum. However, I know that the Men's Clothing Code Authority and members of the industry would disclaim such sweaters because their code is confined to coats, vests, pants and overcoats, and has never included any knitted garments or garments made from knitted fabrics."**

The last quoted opinion would seem to have added confusion to the jurisdictional issues between men's clothing and knitted outerwear, as the Men's Clothing Code Authority did unquestionably claim jurisdiction over certain apparel (as mentioned above) made of knitted materials and produced for men and boys in men's clothing manufacturing establishments.

(*) Memorandum dated April 24, 1935, from Travis Brown, Counsel. (Men's Clothing Code files, Code Classification O-Ż.

(**) Memorandum dated May 1, 1935, from C. H. Wright to R. E. Elwell. (Men's Clothing Code files, Code Classification O-Ż.)

H. Rainwear Division of the Rubber Industry.

The jurisdictional dispute between the Men's Clothing Industry and the Rainwear Division of the Rubber Industry was settled by Administrative Order 15-38. By way of further explanation, it should be pointed out that the Code Authority of the Rainwear Division of the Rubber Manufacturing Industry claimed that certain garments manufactured of fabrics known as cravenette, scotch mist, mist proof or similarly treated fabrics which had been processed so as to be water-repellent belonged to the Rainwear Division. The industries opposed to this claim, including the Men's Clothing Industry, contended that garments which do not include "coating, backing, impregnating, or combining fabrics with rubber, or gutta percha, paste or glue, should not be classed as rainwear." The Administrative ruling contained in Order 15-38 specified that "clothing when made of woven fabrics and sewn in the regular manner used in manufacturing clothing definitely belongs under the wearing apparel codes."

I. Army and Navy Clothing Factories.

The Men's Clothing Code Authority was concerned with the fact that clothing factories owned and operated by the United States Government through the War and Navy Departments did not comply with standards set up by the Code of Fair Competition for the Men's Clothing Industry. The views of the Code Authority are set forth in the following extracts from two letters of protest from the Executive Director to the Administration.

> "This is to inquire what action has been taken by the National Recovery Administration following our conference some few weeks ago with reference to the unfair competition that is brought about in our industry by the failure of both the Army and Navy to comply with the Men's Clothing Code in the operation of their several clothing factories.
>
> "You will recall that I explained that this matter had been taken up on several occasions in the past with various members of the National Recovery Administration's staff, but seemingly nothing had ever been accomplished."*
>
> "I repeat that it seems to me unnecessary to await Congressional action because the President, as Commander-in-Chief of the Army and Navy, could issue an executive order requiring not only clothing factories, but all factories operated by the Government to work under and observe the provisions of the codes applicable to the products manufactured in any government-owned and operated plant. It probably would be well to include in

(*) Letter dated June 1, 1934, from George L. Bell, Executive Director, Men's Clothing Code Authority, to John R. Beecroft, Assistant Deputy Administrator. (Men's Clothing Code files.)

the order a clause to the effect that the War and Navy Departments would not be required to buy and use labels on their products, although I personally believe they should be required to use such labels in order to popularize the NRA label and make the entire public "label conscious." It does seem to me most ominous, to be very moderate in the use of the adjective, that the Government plants should be working people at wages and hours that are in direct contradiction to the whole program of increasing employment and purchasing power."*

J. International Clothing Designers.

A group known as the International Clothing Designers sought to be affiliated with the Men's Clothing Industry Code and to become subject to its jurisdiction and provisions. With respect to this attempted alignment, there is found in the November 8, 1933, Minutes of the Code Authority the following brief note:

"Mr. Drechsler read a communication and a petition addressed to the Code Authority by the International Clothing Designers. After a brief discussion, the opinion of the meeting was to notify the International Clothing Designers Association that the Men's Clothing Code made no provision for their inclusion and that a letter be sent to them to that effect."

II RELATIONSHIP WITH OTHER INDUSTRIAL AND TRADE GROUPS

A. Piece Goods Division, Wool Textile, Manufacturing Industry

The Men's Clothing Industry as a purchaser of woolens is of course intimately associated with and directly affected by the Wool Textile Industry, especially the Piece Goods Selling Division. It is not surprising, then, to find some grounds for disagreement between these industries in connection with proposed and adopted trade practices of the Piece Goods Division of the Wool Textile Industry. For example, the provision in the Piece Goods trade practices that "all freight, express and delivery charges shall be paid by or charged as a separate item to the buyer," represented a break from the traditional practice of quoting goods on a delivered price basis. The men's clothing manufacturers, as well as other apparel industries concerned, argued that this new procedure required the purchaser to pay numerous separate charges which could not be accurately figured in the calculation of the cost of the goods. This was caused in part, it was asserted, by the inability of the small, none too well organized manufacturers to handle the new problems from an administrative and accounting standpoint.**

(*) Letter dated July 3, 1934, from George L. Bell, Executive Director, Men's Clothing Code Authority, to John R. Beecroft, Assistant Deputy Administrator. (Men's Clothing Code files)

(**) Transcript of Hearing on the Wool Textile Industry, January 11, 1935. Pages 4 and 5. (Code Records).

Further, the Piece Goods Division of the Wool Textile Code provided for somewhat rigid terms and restrictions on the granting of discounts. This new practice from the standpoint of the buyer meant increasing difficulties in the matter of adjusting losses from examining and sponging and loss of yardage through shrinkage to the computation of the market price on the new semi-rigid discount basis. (*)

Frequent conferences were held between members of the Men's Clothing Code and those of the Wool Textile group. There is no record, however, of final adjustment of the problems arising out of changes in trade practices by provisions in the Wool Textile Code.

B. Retail and Wholesale Trade.

The Men's Clothing Industry as a seller of goods ran into serious difficulties in connection with attempting to establish trade practices relating to discounts, anticipations, f.o.b. shipments, standard sales, etc. Just as the Men's Clothing Code Authority was unsuccessful in getting adjustments, as buyers, with the woolen people, so in turn, no satisfactory agreements were reached with the buyers of men's clothing. The nautr of the controversy between retailers and wholesalers and the Men's Clothing Industry will be discussed somewhat at length in the chapter on "Trade Practices." The history of this conflict of interest is in a large measure the history of the attempt of the Men's Clothing Code Authority to amend their own fair trade practice provisions.

III. BRIEF HISTORICAL SKETCH OF DEVELOPMENT OF THE MEN'S READY-MADE CLOTHING INDUSTRY (**)

During the Colonial period of American history most urban people made their clothing at home from cloth bought at stores or bought second-hand clothing from dealers in old clothing. The prevalence of home manufacture is evidenced by Alexander Hamilton's Report on Manufacturers, presented to Congress in 1791, which states: "It is computed in a number of districts that two-thirds, three-fourths, and even four-fifths of all the clothing of the inhabitants are made by themselves." This condition seems to have existed down through the first two decades of the nineteenth century.

The well-to-do part of the population either imported its clothing from England or imported cloth which was made up by itinerant tailors. With the growth of villages and towns, some of the itinerant tailors set up shops. The tailor, with the aid of his wife, apprentice, and journeymen, often tailored garments from goods furnished by customers.

A. Ready-Made Garments.

The men's ready-made garment industry started in the custom tailoring shop. The seasonal character of the trade gave incentive for the production for stock in order to keep employees busy. Rejected garments

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(*) Transcript of Hearing on the Wool Textile Industry, January 11, 1935, Page 5. (Code Records)

(**) Extracts are from "The Amalgamated Clothing Workers of America" by Charles E. Zaretz (a comprehensive and well-authenticated study) (New York, 1934.)

found their way to the display shelves. Additionally the custom tailor took over the functions of the second-hand clothing dealer who had already established markets and methods of trading.

The increase in traveling in the early part of the nineteenth century caused by improved means of transportation stimulated a demand for ready-made garments. The levying of a 50 per cent import duty upon cloth in 1832 brought about an expansion of the home industry. Clothing establishments employing 300 to 500 workers appeared in New York, Philadelphia, and Baltimore. In most of these establishments garments were cut and materials assembled, and then given out to women who made garments at home--the beginning of the sweating system in this Industry in the United States.

The manufacture of ready-made clothing had become by 1850 an important industry. The seventh census of the United States, 1850, reports: "There were 4,278 establishments employing 35,151 male and 61,500 female workers. The invested capital amounted to $12,509,000. The amounts spent for wages and materials were $15,032,000, and $25,730,000, respectively, and the value of the products amounted to $48,311,000." There were no factories in the present day sense. The manufacturing establishments were engaged in assembling of materials, cutting and selling of the garments, while the sewing and finishing of the goods was done outside. The employees were English, Irish, and German tailors who were trained in their native lands.

B. Development of the Factory System

The invention of the sewing machine by Elias Howe in 1846 and its perfection by Isaac M. Singer in 1851 were the chief stimuli to the development of the factory system in the clothing industry. The old system of giving out work for completion in homes gave way to the concentration of workers in shops and factories. The ease with which one could learn to operate a sewing machine enabled a great number of unskilled persons to enter the garment industries. The newly-arrived immigrant readily found a place in the industry, although previously untrained, and in fact, began to displace the skilled tailor who had spent years in acquiring the art.

The sewing machine was a great improvement over the old method of sewing by hand and soon after its invention clothing shops began to fill the Ghetto districts of New York, Boston, and Philadelphia, the centers of the ready-made clothing industry. The effect of the sewing machine upon the clothing industry is well described by a writer in 1860 who states: "Among the branches of industry which have been signally advanced especially by the introduction of the sewing machine is the manufacture of men's and women's clothing for sale, which has heretofore ranked with the cotton manufactures in the number of hands (two-thirds of them female) and the cost of labor employed. The increase of this manufacture has been general throughout the Union, and in the four cities of New York, Philadelphia, Cincinnati, and Boston amounted in value to 40 and one-quarter millions of dollars, or over 83 per cent of the product of the whole Union in 1850."

The Census of Manufactures (Eighth Census, 1860) gives the size of ready-made clothing industry in its four largest centers as follows:

City	Number of Establishments	Number of Workers Male	Female	Value of Products
New York	303	10,954	10,624	$17,011,376
Philadelphia	352	6,309	8,078	9,984,497
Cincinnati	222	5,016	4,963	6,381,196
Boston	61	1,324	2,693	4,567,749

C. Civil War Stimulus to Factory System.

The demand for army clothing during the Civil War could not be supplied by the old type clothing shop, and the Government had to purchase some clothing from abroad. The Government set up its own shops and also gave large contracts to private concerns. Report No. 33 of the U. S. Bureau of Foreign and Domestic Commerce states that at first the uniforms were made at the homes of workers, but as the war went on a large number of shops were set up to fill army contracts. In connection with the manufacture of uniforms an important discovery to the industry was made. It was learned that there is a close relationship between the different parts of the male figure. For instance, it was observed that men who have a 40-inch chest usually have a 36-inch waist and legs 31 inches on the inseam, and that for every chest size there was a corresponding waist and leg size. This discovery of size relationship made factory production on a large scale possible.

After the Civil War many of the newly-formed shops and factories turned their attention to civilian clothing. The requirements of soldiers now returned to civil life and the acceleration given trade and commerce in general by the opening up of the South and West created increasing demands for ready-made clothing, which the industry met with difficulty for a time, despite improvements in methods and technology. Chicago and St. Louis became important clothing centers in the Mid-West, and the industry gained a considerable foothold in New Orleans, in the South. In 1879, the Hart, Schaffner & Marx firm, the largest clothing establishment in the United States and doubtless in the world, was founded as Hart, Abt & Marx. In 1887, Mr. Levi Abt withdrew from, and Mr. Joseph Schaffner joined, the organization, forming the partnership of Hart, Schaffner & Marx. The firm was incorporated in 1911.

IV. PRESENT DAY SCOPE OF MEN'S CLOTHING INDUSTRY.

A. Number of Establishments.

The Code Authority for the Men's Clothing Inudstry estimated that there were 3,225 establishments in the Industry during the Spring season of 1935. This is an estimate of regular factories and contract shops, and represents an increase of slightly more than 1,000 establishments over the 1933 total of 2,219, but falls 466 short of the 1929 total of 3,691. Attention is directed to the table immediately following, which gives for the years 1923, 1925, 1927, 1929, 1931, 1933, and 1935 the number of clothing manufacturing establishments in the United States which could be classed as belonging to the Men's Clothing Industry as qualified by the codal definition for this Industry.

Mr. H. K. Herwitz, Comptroller of the Men's Clothing Code Authority, has estimated that no one member of the Industry produces more than 3 per cent of the volume of the Industry. A study by the same individual likewise reveals that a list of the 50 largest producers would range down

to include those firms which produce .3 of 1 per cent of the Industry volume.

TABLE I

Number of Establishments in the Men's Clothing Industry: Regular Factories and Contract Shops

Year	Regular Factories	Contract Shops	Total Establishments
1923			4,024
1925			3,491
1927	2,044	1,518	3,562
1929	2,167	1,524	3,691
1931	1,802	1,143	2,945
1933	1,470	749	2,219[a/]
1935			3,225

Source: Census of Manufactures, 1929, 1931, 1933; figures for 1935 from Men's Clothing Code Authority.

a/ Due to changes in Census classifications, 1933 figures are not strictly comparable with those for previous years.

B. Distribution of Establishments.

The distribution of the establishments in the Industry by States for the years 1929, 1931, and 1935, is indicated by Table II (*). It can be readily seen that a very few States; namely, New York, Illinois, Maryland, Massachusetts, New Jersey, and Pennsylvania; account for the major portion of the Industry's establishments; to be exact, 88.6 per cent of the 1935 total. This heavy concentration of establishments is to be found in the cities of New York, Chicago, Boston, Philadelphia, Rochester, and Baltimore, which have been centers of the Industry since its early development. It is of interest to note that New York State alone accounts for approximately 50 per cent of the productive units in the Industry. This is accounted for by the large number of small contract shops found in the New York City area. Yet, as shown by Table III, percentage of Total Garments Cut, by Principal States, New York State also accounts for an outstandingly high percentage of the garments cut.

Attention is drawn to the fact, as shown by Table II, that the New York area and likewise the Illinois area lost establishments in relation to the total during the period from 1929 to 1931, but reestablished a more favorable ratio by 1935. New York, in fact, exceeded its 1929 percentage of establishments in 1935 by 1 per cent of the total, having registered a rather large gain of 2.4 per cent of the total for the Industry between the years 1931 and 1935. A striking gain of 4.3 per cent of establishments is shown by Maryland in the years between 1929 and 1935.

(*) For a distribution of establishments among the principal States for the years 1923, 1925, 1927, see Tables V, VI, VII.

TABLE II

NUMBER AND PER CENT OF PRODUCTIVE UNITS IN SPECIFIED STATES[a]

State	1929		1931		1935	
	Number	Per cent	Number	Per cent	Number	Per cent
United States Total	3,691	100.0	2,945	100 0	3,225	100.0
California	88	2.4	64	2.2	105	3.3
Colorado	5	0.1	5	0.2	3	0.1
Connecticut	30	0.8	16	0.5	7	0.2
Georgia	7	0.2	8	0.3	5	0.2
Illinois	319	8.6	204	6.9	269	8.3
Indiana	25	0.7	18	0.6	5	0.2
Kentucky	24	0.7	18	0.6	10	0.3
Louisiana	17	0.5	19	0.6	17	0.5
Maine	9	0.2	7	0.2	5	0.2
Maryland	217	5.9	257	8.7	329	10.2
Massachusetts	161	4.4	146	5.0	117	3.6
Michigan	22	0.6	13	0.4	10	0.3
Minnesota	46	1.2	40	1.4	19	0.6
Missouri	72	2.0	65	2.2	27	0.8
New Hampshire	5	0.1	3	0.1	2	0.1
New Jersey	168	4.6	145	4.9	190	5.9
New York	1,817	49.2	1,404	47.8	1,622	50.2
Ohio	130	3.5	102	3.5	97	3.0
Pennsylvania	384	10.4	317	10.7	336	10.4
Tennessee	11	0.3	10	0.3	7	0.2
Texas	18	0.5	11	0.4	3	0.1
Virginia	17	0.5	11	0.4	5	0.2
Washington	9	0.2	7	0.2	3	0.1
Wisconsin	37	1.0	28	1.0	19	0.6
Other States	53	1.4	27	0.9	13	0.4

Source: Census of Manufactures, "Men's Clothing;" 1935 figures estimated by the Code Authority for Men's Clothing Industry.

a/ Regular factories and contract shops combined.

C. Garments Cut by Principal States.

The percentage of garments cut by States is a good index of the distribution of the Men's Clothing Industry throughout the United States. Attention is directed to Table III, which indicates the Percentage of Garments Cut, by Principal States, for the year 1934. The States leading in garments cut are New York, Pennsylvania, Illinois, Ohio, Maryland, and Massachusetts. The State of New York is outstanding in accounting for 46.2 per cent of the total garments cut in the Industry for 1934.

D. Wage Earners in the Industry.

Wage earners in the Men's Clothing Industry approximated 158,000 employees in 1923. Employees in the Industry declined sharply from the high in 1923, with the exception of a reversal in trend for the years 1927 and 1929, to a low of approximately 119,000 in 1933. A comparison of the number of wage earners in the Men's Clothing Industry with all other manufacturing industries (See Table IV), indicates little change in relative positions from 1923 to 1933. Men's Clothing represented 1.8 per cent of all other manufacturing industries in 1923 and 2.0 per cent in 1933. A distribution of wage earners in the Industry by States for the years 1923, 1925, 1927, 1929, 1931, and 1933 is found in Tables V, VI, VII, VIII, IX, and X respectively. The clothing centers found in the States of New York, Pennsylvania, Illinois, Maryland, Massachusetts, and Ohio maintained their predominance in numbers employed over this ten-year period. A significant trend is noticed over this period in the shift of employees from the States of New York and Illinois and the gain in employees by the States of Pennsylvania and Maryland. This appears to represent a shift in manufacturing activity within the Industry from large metropolitan centers to towns and cities of smaller populations. (*)

E. Value and Volume of Production.

The principal products produced under the Men's Clothing Industry Code were: men's suits, wholly or partly wool, mohair, and linen; men's separate trousers; men's overcoats and topcoats; men's odd coats; boys' suits, wool cotton, etc.; boys' separate pants; boys' overcoats; boys' mackinaws, reefers, and light coats; and uniforms.

The volume and value of production of men's clothing for the Census years 1923, 1925, 1927, 1929, 1931, and 1933, together with estimates for 1934 made by the Code Authority, is shown in Table XI. Value of garments produced declined by more than half from 1923 to 1934, as evidenced by the totals of $936,787,000 and $397,876,000 respectively. The decline in value of garments produced was unbroken in the eleven-year period from 1923 to 1934. Total values for 1934 slightly exceeded the value of 1933 when allowance is made for uniforms. The Men's Clothing Code Authority estimated that the 1934 production of uniforms was about the same as for 1933 and that the value at 1934 prices would be from $9,500,000 to $10,000,000,

(*) Further statistical evidence of this trend will be found in a more detailed study of migration in the Industry found in Chapter II, Section VIII.

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Table V

Men's Clothing Industry

Establishments, Wage Earners, Wages, Cost of Materials, Value of Products and Value Added, by States, 1923 a/

States	Establishments		Wage Earners		Wages		Cost of Materials b/		Value of Products		Value Added by Manufacture	
	Number	Per Cent of Total	Number	Per Cent of Total	Thousands of Dollars	Per Cent of Total	Thousands of Dollars	Per Cent of Total	Thousands of Dollars	Per Cent of Total	Thousands of Dollars	Per Cent of Total
Total U. S.	4,024	100.0	158,173	100.0	207,252	100.0	483,927	100.0	1,016,722	100.0	532,794	100.0
Illinois	328	8.2	31,961	20.2	48,888	23.6	76,499	15.8	178,043	17.5	101,544	19.1
Maryland	184	4.6	8,199	5.2	8,480	4.1	21,170	4.4	45,730	4.5	24,560	4.6
Massachusetts	201	5.0	6,840	4.3	8,532	4.1	19,082	3.9	36,762	3.6	17,680	3.3
Missouri	51	1.3	3,530	2.2	3,716	1.8	9,424	2.0	18,228	1.8	8,804	1.7
New Jersey	171	4.2	6,285	4.0	7,350	3.6	7,843	1.6	20,901	2.1	13,057	2.5
New York	2,211	54.9	56,994	36.0	85,026	41.0	240,243	49.6	504,813	49.6	264,570	49.6
Ohio	154	3.8	12,024	7.6	13,592	6.6	29,337	6.1	59,843	5.9	30,506	5.7
Pennsylvania	470	11.7	16,516	10.5	17,678	8.5	47,660	9.9	92,956	9.1	45,296	8.5
Wisconsin	28	0.7	2,012	1.3	2,167	1.0	4,970	1.0	8,707	0.9	3,737	0.7
All other states c/	226	5.6	13,812	8.7	11,823	5.7	27,699	5.7	50,739	5.0	23,040	4.3

Source: Census of Manufactures, 1929, Vol. II, p. 359. Data are for Census classification "Clothing (Except Work Clothing), Men's, Youths', and Boy's, not elsewhere classified." They do not include establishments with annual production valued at less than $5,000.

a/ Includes regular factories and contract shops.
b/ Includes cost of materials, fuel, and purchased electric energy.
c/ Ala., Cal., Colo., Conn., Del., Fla., Ga., Ind., Ia., Kan., Ky., La., Me., Mich., Minn., Neb., N. H., N.C., Ore., R. I., S.C., Tenn., Tex., Vt., Va., Wash., W.Va.,

Table VI

Men's Clothing Industry

Establishments, Wage Earners, Wages, Cost of Materials, Value of Products, and Value Added, by States, 1925 a/

States	Establishments		Wage Earners		Wages		Cost of Materials b/		Value of Products		Value Added by Manufacture	
	Number	Per Cent of Total	Number	Per Cent of Total	Thousands of Dollars	Per Cent of Total	Thousands of Dollars	Per Cent of Total	Thousands of Dollars	Per Cent of Total	Thousands of Dollars	Per Cent of Total
Total U. S.	3,491	100.0	141,511	100.0	179,045	100.0	471,501	100.0	946,275	100.0	474,774	100.0
Illinois	332	9.5	23,499	16.6	32,407	18.1	56,103	11.9	127,329	13.5	71,226	15.0
Maryland	208	6.0	9,228	6.5	8,952	5.0	25,766	5.4	51,853	5.5	26,087	5.5
Massachusetts	179	5.1	5,593	4.0	6,424	3.6	15,449	3.3	30,429	3.2	14,980	3.2
Missouri	58	1.7	3,620	2.6	3,799	2.1	11,121	2.4	20,947	2.2	9,826	2.1
New Jersey	162	4.6	6,393	4.5	7,204	4.0	8,906	1.9	21,061	2.2	12,155	2.6
New York	1,670	47.8	48,537	34.3	72,211	40.3	233,758	49.6	462,243	48.8	228,485	48.1
Ohio	164	4.7	12,652	8.9	15,026	8.4	34,751	7.4	70,109	7.4	35,358	7.4
Pennsylvania	414	11.9	15,680	11.1	18,373	10.3	50,563	10.7	97,058	10.3	46,495	9.8
Wisconsin	22	0.6	1,546	1.1	1,684	0.9	3,277	0.7	6,789	0.7	3,512	0.7
All other states c/	282	8.1	14,763	10.4	12,965	7.3	31,807	6.7	58,457	6.2	26,650	5.6

Source: Census of Manufactures, 1929, Vol. II, p.359. Data are for Census classification "Clothing (Except Work Clothing), Men's, Youths', and Boys', Not Elsewhere Classified." They do not include establishments with annual production valued at less than $5,000.

a/ Includes regular factories and contract shops.
b/ Includes cost of materials, fuel, and purchased electric energy.
c/ Ala., Cal., Colo., Conn., Del., Fla., Ga., Ind., Ia., Kan., Ky., La., Me., Mich., Minn., Neb., N. h., N.C., Ore., R..I., S.D., Tenn., Tex., Vt., Va., Wash., W.Va.,

Table VII

Men's Clothing Industry

Establishments, Wage Earners, Wages, Cost of Materials, Value of Products, and Value Added, by States, 1927 a/

States	Establishments		Wage Earners		Wages		Cost of Materials b/		Value of Products		Value Added by Manufacture	
	Number	Per Cent of Total	Number	Per Cent of Total	Thousands of Dollars	Per Cent of Total	Thousands of Dollars	Per Cent of Total	Thousands of Dollars	Per Cent of Total	Thousands of Dollars	Per Cent of Total
Total U. S.	3,562	100.0	146,099	100.0	184,613	100.0	447,245	100.0	932,182	100.0	484,937	100.0
California	50	1.4	1,415	1.0	1,872	1.0	2,355	0.5	5,726	0.6	3,371	0.7
Connectiout	16	0.4	878	0.6	833	0.5	1,311	0.3	3,232	0.3	1,920	0.4
Georgia	4	0.1	186	0.1	114	0.1	428	0.1	709	0.1	281	0.1
Illinois	330	9.3	22,060	15.1	32,888	17.8	54,167	12.1	130,483	14.0	76,316	15.7
Indiana	16	0.4	1,706	1.2	1,838	1.0	3,245	0.7	7,325	0.8	4,081	0.8
Iowa	4	0.1	195	0.1	225	0.1	548	0.1	1,059	0.1	511	0.1
Kentucky	27	0.8	2,456	1.7	1,943	1.1	4,430	1.0	7,958	0.9	3,529	0.7
Louisiana	9	0.3	713	0.5	423	0.2	1,406	0.3	2,239	0.2	833	0.2
Maine	8	0.2	243	0.2	150	0.1	231	0.1	496	0.1	266	0.1
Maryland	211	5.9	8,816	6.0	8,339	4.5	18,370	4.1	39,916	4.3	21,546	4.5
Massachusetts	167	4.7	6,488	4.5	7,393	4.0	17,097	3.8	33,823	3.6	16,727	3.5
Michigan	13	0.4	643	0.4	726	0.4	1,835	0.4	3,341	0.4	1,505	0.3
Minnesota	32	0.9	1,562	1.1	1,676	0.9	4,560	1.0	7,377	0.8	2,817	0.6
Missouri	68	1.9	4,171	2.8	4,090	2.2	10,133	2.3	19,639	2.1	9,506	2.0
New Hampshire	3	0.1	192	0.1	145	0.1	388	0.1	866	0.1	478	0.1
New Jersey	151	4.2	6,522	4.5	7,926	4.3	10,788	2.4	25,785	2.8	14,997	3.1
New York	1,785	50.1	49,523	33.8	73,547	39.8	213,166	47.7	443,639	47.6	230,473	47.5
Ohio	148	4.2	13,318	9.1	13,564	7.4	34,557	7.7	64,615	6.9	30,058	6.2
Oregon	4	0.1	391	0.3	355	0.2	1,094	0.3	2,107	0.2	1,013	0.2
Pennsylvania	419	11.8	17,378	11.9	20,176	10.9	48,177	10.8	97,339	10.4	49,162	10.1
Tennessee	8	0.2	1,347	0.9	873	0.5	2,339	0.5	4,269	0.5	1,930	0.4
Virginia	11	0.3	1,434	1.0	993	0.5	2,590	0.6	4,715	0.5	2,124	0.4
Washington	14	0.4	298	0.2	368	0.2	546	0.1	1,162	0.1	616	0.1
Wisconsin	30	0.9	2,559	1.8	3,027	1.6	7,897	1.8	13,883	1.5	5,985	1.2
All other states c/	34	0.9	1,605	1.1	1,129	0.6	5,587	1.2	10,479	1.1	4,892	1.0

Source: Census of Manufactures, 1929, Vol., II, pp.356, 357. Data are for Census classification "Clothing (Except Work Clothing), Men's, Youths', and Boys', Not Elsewhere Classified." They do not include establishments with annual production valued at less than $5,000.

a/ Includes regular factories and contract shops.
b/ Includes cost of materials, fuel, and purchased electric energy.
c/ Alabama 2; Colorado 3; Delaware 3; District of Columbia 1; Florida 1; Kansas 1; Nebraska 7; North Carolina 2; Oklahoma 3; Rhode Island 1; Texas 4; Vermont 1; West Virginia 5.

Table VIII

Men's Clothing Industry

Establishments, Wage Earners, Wages, Cost of Materials, Value of Produots and Value Added, by States, 1929 a/

States	Establishments		Wage Earners		Wages		Cost of Materials b/		Value of Producte		Value Added by Manufacture	
	Number	Per Cent of Total	Number	Per Cent of Total	Thousands of Dollars	Per Cent of Total	Thousands of Dollars	Per Cent of Total	Thousands of Dollars	Per Cent of Total	Thousands of Dollars	Per Cent of Total
Total U. S.	3,691	100.0	149,868	100.0	179,769	100.0	440,505	100.0	901,104	100.0	460,599	100.0
California	88	2.4	2,267	1.5	2,659	1.5	4,102	0.9	9,159	1.0	5,057	1.1
Colorado	5	0.1	467	0.3	364	0.2	716	0.2	1,443	0.2	728	0.1
Connecticut	30	0.8	751	0.5	1,018	0.6	856	0.2	2,921	0.3	2,066	0.4
Georgia	7	0.2	428	0.3	218	0.1	861	0.2	1,665	0.2	804	0.2
Illinois	319	8.6	20,304	13.6	28,678	16.0	49,065	11.1	118,475	13.2	69,410	15.1
Indiana	25	0.7	2,236	1.5	1,946	1.1	3,320	0.7	7,465	0.8	4,146	0.9
Iowa	9	0.2	518	0.3	426	0.2	1,634	0.4	2,831	0.3	1,197	0.3
Kentucky	24	0.7	2,186	1.5	1,694	0.9	3,770	0.8	7,447	0.8	3,677	0.8
Louisiana	17	0.5	1,337	0.9	729	0.4	2,069	0.5	3,983	0.5	1,914	0.4
Maine	9	0.2	311	0.2	238	0.1	521	0.1	994	0.1	473	0.1
Maryland	217	5.9	10,007	6.7	9,016	5.0	21,552	4.9	45,277	5.0	23,725	5.1
Massachusetts	161	4.4	5,551	3.7	6,446	3.6	15,923	3.6	30,585	3.4	14,662	3.2
Michigan	22	0.6	1,085	0.7	928	0.5	2,179	0.5	4,415	0.5	2,236	0.5
Minnesota	46	1.2	2,128	1.4	2,377	1.3	6,470	1.5	11,112	1.2	4,641	1.0
Missouri	72	2.0	4,957	3.3	4,683	2.6	12,403	2.8	22,821	2.5	10,418	2.3
New Hampshire	5	0.1	240	0.2	177	0.1	497	0.1	772	0.1	275	0.1
New Jersey	168	4.6	7,910	5.3	9,143	5.1	12,270	2.8	28,381	3.2	16,111	3.5
New York	1,817	49.2	47,210	31.5	65,149	36.2	195,820	44.4	397,394	44.1	201,574	43.8
Ohio	130	3.5	13,215	8.8	16,553	9.2	36,379	8.3	68,788	7.6	32,409	7.0
Oregon	11	0.3	488	0.3	442	0.3	1,070	0.2	2,102	0.2	1,031	0.2
Pennsylvania	384	10.4	18,473	12.3	20,817	11.6	49,711	11.3	98,347	10.9	48,636	10.6
Tennessee	11	0.3	1,273	0.8	714	0.4	1,662	0.4	3,220	0.4	1,558	0.3
Texas	18	0.5	277	0.2	199	0.1	310	0.1	750	0.1	440	0.1
Virginia	17	0.5	2,381	1.6	1,538	0.9	4,640	1.1	8,065	0.9	3,425	0.7
Washington	9	0.2	119	0.1	167	0.1	248	0.1	572	0.1	325	0.1
Wisconsin	37	1.0	2,467	1.6	2,503	1.4	6,878	1.6	12,029	1.3	5,150	1.1
All other states c/	33	0.9	1,282	0.9	947	0.5	5,579	1.2	10,091	1.1	4,511	1.0

Source: Census of Manufactures, 1929, Vol. II, pp.356, 357. Data are for Census classification "Clothing (Except Work Clothing), Men's, Youths', and Boys', Not Elsewhere Classified." They do not include establishments with annual production valued at less than $5,000.

a/ Includes regular factories and contract shops.
b/ Includes cost of materials, fuel, and purchased electric energy.
c/ Alabama 3; Delaware 6; Florida 3; Kansas 3; Nebraska 7; North Carolina 3; Rhode Island 2; South Dakota 1; Vermont 1; West Virginia 4.

Table IX

Men's Clothing Industry

Establishments, Wage Earners, Wages, Cost of Materials, Value of Products and Value Added, by States, 1931 a/

States	Establishments		Wage Earners		Wages		Cost of Materials b/		Value of Products		Value Added by Manufacture	
	Number	Per Cent of Total	Number	Per Cent of Total	Thousands of Dollars	Per Cent of Total	Thousands of Dollars	Per Cent of Total	Thousands of Dollars	Per Cent of Total	Thousands of Dollars	Per Cent of Total
Total U. S.	2,945	100.0	121,964	100.0	115,041	100.0	263,675	100.0	551,416	100.0	287,741	100.0
California	64	2.2	1,618	1.3	1,698	1.5	2,634	1.0	5,706	1.0	3,072	1.1
Colorado	5	0.2	304	0.2	223	0.2	287	0.1	627	0.1	340	0.1
Connecticut	16	0.5	791	0.6	683	0.6	602	0.2	1,739	0.3	1,137	0.4
Georgia	8	0.3	607	0.5	328	0.3	1,312	0.5	1,996	0.4	684	0.2
Illinois	204	6.9	15,203	12.5	16,282	14.1	24,998	9.5	59,885	10.9	34,887	12.1
Indiana	18	0.6	2,329	1.9	1,568	1.4	2,588	1.0	6,221	1.1	3,633	1.3
Kentucky	18	0.6	1,555	1.3	972	0.8	1,611	0.6	3,625	0.7	2,015	0.7
Louisiana	19	0.6	1,230	1.0	639	0.5	1,710	0.6	2,986	0.5	1,276	0.5
Maine	7	0.2	282	0.2	244	0.2	343	0.1	755	0.1	412	0.1
Maryland	257	8.7	9,642	7.9	7,145	6.2	12,794	4.9	28,143	5.1	15,349	5.3
Massachusetts	146	5.0	5,345	4.4	5,235	4.5	11,057	4.2	21,845	4.0	10,789	3.7
Michigan	13	0.4	1,164	1.0	698	0.6	1,720	0.7	3,143	0.6	1,422	0.5
Minnesota	40	1.4	1,272	1.0	1,203	1.0	3,295	1.2	5,533	1.0	2,238	0.8
Missouri	65	2.2	3,760	3.1	3,078	2.7	5,791	2.2	11,922	2.2	6,131	2.1
New Hampshire	3	0.1	183	0.2	168	0.1	160	0.1	409	0.1	249	0.1
New Jersey	145	4.9	7,559	6.2	6,541	5.7	7,920	3.0	20,902	3.8	12,982	4.5
New York	1,404	47.7	34,805	28.6	38,522	33.5	119,284	45.2	247,762	44.9	128,478	44.7
Ohio	102	3.5	11,536	9.5	10,627	9.2	23,601	9.0	44,346	8.0	20,745	7.2
Pennsylvania	317	10.8	16,274	13.3	14,741	12.8	28,793	10.9	60,435	11.0	31,641	11.0
Tennessee	10	0.3	1,034	0.8	546	0.5	1,073	0.4	2,218	0.4	1,145	0.4
Texas	11	0.4	268	0.2	183	0.1	300	0.1	623	0.1	323	0.1
Virginia	11	0.4	1,792	1.5	1,080	0.9	2,430	0.9	4,474	0.8	2,044	0.7
Washington	7	0.2	92	0.1	110	0.1	162	0.1	313	0.1	152	0.1
Wisconsin	28	1.0	1,642	1.3	1,430	1.4	3,195	1.2	5,673	1.0	2,477	0.9
All other states c/	27	0.9	1,677	1.4	1,097	1.1	6,015	2.3	10,135	1.8	4,120	1.4

Source: Census of Manufactures, 1931, pp. 309, 310. Data are for Census classification "Clothing (Except Work Clothing), Men's, Youths', and Boys', Not Elsewhere Classified." They do not include establishments with annual production valued at less than $5,000.

a/ Includes regular factories and contract shops.
b/ Includes cost of materials, fuel, and purchased electric energy.
c/ Alabama 4; Delaware 3; Florida 1; Iowa 3; Kansas 1; Nebraska 3; North Carolina 2; Oregon 2; Rhode Island 3; South Carolina 1; Utah 1; West Virginia 3.

Table X

Men's Clothing Industry

Establishments, Wage Earners, Wages, Cost of Materials, Value of Products and Value Added, by States, 1933 a/

States	Establishments		Wage Earners		Wages		Cost of Materials b/		Value of Products		Value Added by Manufacture	
	Number	Per Cent of Total	Number	Per Cent of Total	Thousands of Dollars	Per Cent of Total	Thousands of Dollars	Per Cent of Total	Thousands of Dollars	Per Cent of Total	Thousands of Dollars	Per Cent of Total
Total U. S.	2,219	100.0	119,253	100.0	92,265	100.0	214,639	100.0	445,220	100.0	230,581	100.0
California	56	2.5	1,924	1.6	1,512	1.6	2,535	1.2	5,363	1.2	2,827	1.2
Colorado	5	0.2	313	0.3	164	0.2	328	0.2	649	0.1	321	0.1
Connecticut	16	0.7	759	0.7	512	0.6	674	0.3	1,635	0.4	961	0.4
Georgia	7	0.3	960	0.8	488	0.5	1,814	0.8	2,693	0.6	880	0.4
Illinois	170	7.7	13,448	11.3	10,376	11.3	16,211	7.6	37,748	8.5	21,538	9.3
Indiana	14	0.6	2,538	2.1	1,572	1.7	2,613	1.2	5,757	1.3	3,144	1.4
Iowa	4	0.2	398	0.3	248	0.3	503	0.2	1,052	0.2	549	0.2
Kentucky	14	0.6	1,711	1.4	946	1.0	2,252	1.0	4,444	1.0	2,192	1.0
Louisiana	9	0.4	951	0.8	467	0.5	918	0.4	1,896	0.4	978	0.4
Maine	5	0.2	251	0.2	122	0.1	215	0.1	439	0.1	224	0.1
Maryland	219	9.9	9,482	8.0	6,188	6.7	10,524	4.9	25,100	5.6	14,576	6.3
Massachusetts	130	5.8	5,142	4.3	4,078	4.4	10,247	4.8	19,997	4.5	9,750	4.2
Michigan	10	0.5	994	0.8	547	0.6	1,753	0.8	2,695	0.6	942	0.4
Minnesota	29	1.3	1,227	1.0	1,005	1.1	2,913	1.4	5,146	1.2	2,232	1.0
Missouri	37	1.7	2,663	2.2	1,993	2.2	4,767	2.2	10,065	2.3	5,298	2.3
New Jersey	110	5.0	8,508	7.1	6,212	6.7	7,718	3.6	19,092	4.3	11,374	5.0
New York	997	44.9	33,086	27.8	29,906	32.4	95,507	44.5	195,144	43.8	99,637	43.2
Ohio	80	3.6	10,744	9.0	8,238	8.9	17,681	8.2	33,154	7.5	15,473	6.7
Pennsylvania	246	11.1	17,116	14.4	13,561	14.7	24,953	11.6	51,701	11.6	26,748	11.6
Tennessee	10	0.5	2,238	1.9	1,027	1.1	2,304	1.1	4,589	1.0	2,285	1.0
Texas	5	0.3	132	0.1	73	.1	133	0.1	284	0.1	151	0.1
Virginia	5	0.2	1,936	1.6	1,168	1.3	2,251	1.0	4,477	1.0	2,226	1.0
Wisconsin	20	0.9	1,309	1.1	1,014	1.1	2,255	1.1	4,309	1.0	2,054	0.9
All other states c/	20	0.9	1,423	1.2	848	0.9	3,570	1.7	7,791	1.7	4,221	1.8

Source: Census of Manufactures, 1933, Wearing Apparel, p.5. Data are for Census classification "Clothing (Except Work Clothing), Men's, Youths', and Boy's, Not Elsewher Classified." They do not include establishments with annual production valued at less than $5,000.

a/ Includes regular factories and contract shops. Due to changes in Census classifications, 1933 figures are not strictly comparable with those for previous years.

b/ Includes cost of materials, fuel, and purchased electric energy.

c/ Alabama 1; Delaware 2; Nebraska 2; New Hampshire 2; North Carolina 2; Oregon 3; Rhode Island 3; South Carolina 1; Vermont 1; Washington 2; West Virginia 1.

TABLE XI

MEN'S CLOTHING INDUSTRY

Principal Products, by Class and Value, 1923 and 1925, and by Class, Quantity and Value, 1927-1934[a/]

Product	1923 Value	1925 Value	1927 Quantity	1927 Value	1929 Quantity	1929 Value	1931 Quantity	1931 Value	1933[b/] Quantity	1933[b/] Value	1934 Quantity	1934 Value
	Thousands of Dollars	Thousands of Dollars	Thousands of Garments	Thousands of Dollars	Thousands of Garments	Thousands of Dollars	Thousands of Garments	Thousands of Dollars	Thousands of Garments	Thousands of Dollars	Thousands of Garments	Thousands of Dollars
Total	936,787	878,092	69,737	871,310	76,795	841,102	61,563	513,792	36,940	401,711	48,171	397,876
Men's and Youths' Suits	495,966	467,617	23,763	490,956	23,518	489,251	17,538	283,363	16,185	229,316	17,460	266,138
Wholly or partly wool									15,645	225,458	15,756	255,424
Cotton, mohair, linen									541	3,858	1,704	10,714
Men's and Youths' Separate trousers	91,741	94,723	19,883	62,765	24,337	67,452	16,523	41,734	9,188	20,620	16,264	28,095
Wool											7,024	17,700
Cotton, etc.											9,240	10,395
Men's and Youths' Overcoats and Topcoats	170,516	145,200	6,529	129,372	7,322	131,550	4,526	68,286	4,231	54,366	4,095	59,195
Men's Odd Coats			1,154	8,038	1,258	13,035	826	7,846	470	3,842	486	4,474
Boys' Suits	81,785	64,656	6,929	46,094	5,566	34,834	6,134	21,720	2,506	12,794	5,672	24,241
Wool											2,824	16,232
Cotton, etc.											2,848	8,009
Boys' Separate Pants and Knickers	[c/]	13,789	9,317	14,120	12,847	16,028	12,806	15,442	3,705	3,763	2,961	8,164
Wool												3,398
Cotton, etc.												4,766
Boys' Overcoats and Reefers	19,999	15,642	2,162	19,486	1,947	12,648	1,210	6,468	654	3,355	1,233	7,569
Other	76,780	76,465		100,479		116,304[d/]		68,913[e/]		73,659[f/]		

Source: Census of Manufactures, 1929. Vol. II, pp. 361,363; 1931, p. 317; 1933, Wearing Apparel p. 7; 1934, data from the Code Authority for Men's Clothing Industry. Data are for Census Classification, "Clothing (except Fork Clothing) Men's, Youths', and Boys', Not Elsewhere Classified".

a/ Receipts for contract work are as follows: 1923, $70,118,381; 1925, $63,107,439; 1927, $68,386,118; 1929, $66,178,986; 1931, $6,977,334; 1933, $29,118,730.

b/ Figures for 1933 are not strictly comparable with those for previous years because of changes in Census Classifications.

c/ Included in figure for Boys' Suits.

d/ Includes, among other things, the production of 1,560,000 uniforms (other than white-duck) valued at $17,580,000.

e/ Includes, among other things, the production of 749,000 uniforms (other than white-duck) valued at $11,641,000.

f/ Includes, among other things, the production of 636,000 uniforms (other than white-duck) valued at $8,500,000.

Prepared by Industry Statistics Unit, Statistics Section, Division of Review, NRA.

TABLE III

PERCENTAGE OF TOTAL GARMENTS CUT, BY PRINCIPAL STATES, 1934

State	Per Cent of Total	Volume of Production (Thousand Garments)	Value of Production (In thousands)
U. S. Total	100.0	45,323	$397,876
California	.4	195	1,711
Georgia	1.2	548	4,814
Illinois	9.1	4,133	36,286
Indiana	.9	421	3,700
Kentucky	.7	308	2,706
Louisiana	1.5	671	5,889
Maryland	7.2	3,263	28,647
Massachusetts	4.1	1,845	16,194
Minnesota	.3	113	995
Missouri	2.1	970	8,514
New Jersey	.7	317	2,785
New York State	46.2	20,998	184,336
Ohio	11.2	5,062	44,443
Oregon	.1	32	279
Pennsylvania	11.7	5,312	46,631
Puerto Rico	.1	32	279
Tennessee	1.2	526	4,615
Virginia	.7	295	2,586
Wisconsin	.4	159	1,392
Other States	.2	123	1,074

Source: Code Authority for Men's Clothing Industry.

making a grand total value for all garments of approximately $407,000,000 for 1934 as against the 1933 total value of $401,711,000.

Figures on total number of garments produced in the Men's Clothing Industry are not available for the years 1923 and 1925. From the year 1927, with the exception of 1929, the number of garments produced declined sharply until 1934, when an improvement over 1933 was registered. The decline in volume from the high figure of 76,795,000 in 1929 to the low point of 36,940,000 represented a shrinkage of approximately 52 per cent. The recovery in 1934 over 1933 in turn was very substantial, as evidenced by the volume of 48,171,000 garments for 1934, as against 36,940,000 for 1933.

TABLE

MEN'S CLOTHING INDUSTRY

Number of Wage Earners in the Men's Clothing Industry Compared with that in All Other Manufacturing Industries
1923 - 1933

Year	Men's Clothing Industry a/	All Manufacturing Industries Less Men's Clothing	Percentage Men's Clothing is of All Other Manufacturing Industries
	(Thousands of Workers)		
1923	158	8,620	1.8
1925	142	8,242	1.7
1927	146	8,204	1.8
1929	150	8,689	1.7
1931	122	6,401	1.9
1933 b/	119	5,936	2.0

SOURCE: Census of Manufactures, 1929, Vol. II, pp. 15 and 356; 1931, p. 20; 1933, Wearing Apparel, p. 5; mimeographed release, January 23, 1935, p. 1.

a/ Data are for Census classification "Clothing (Except Work Clothing), Men's, Youths', and Boys', Not Elsewhere Classified." They do not include establishments with annual production valued at less than $5,000.

b/ The figures for 1933 are not strictly comparable with those for previous years, because of changes in Census classifications.

Prepared by
Industry Statistics Unit
Statistics Section
Division of Review, N.R.A.

CHAPTER II

CHARACTERISTICS OF THE INDUSTRY

I. ORGANIZATION OF PRODUCTION

A. Types of Establishments

There are two distinct types of firms in the Men's Clothing Industry. First, there are establishments which buy material, cut the cloth, market the finished product, finance production from raw materials to finished garments, but which often do not own and operate the plant where the garments are made. Secondly, there are establishments called "contract shops" or contractors who take cut cloth and accessories from one who finances the business and perform the remaining operations necessary to completing the garment on a piece price basis. (*) This contractor is ordinarily responsible for his own force of workmen and usually owns machinery and a workroom. Until the Code went into effect, a substantial part of the work was done on a home work basis, in which labor was performed in the homes of the employees themselves, and not in a factory owned and conducted by the employers.

In a few cities, including Chicago, Rochester, Cleveland, and St. Louis, most production is found in shops which complete the entire garment. In other cities, of which New York is the most significant, the work for the most part is conducted in contract shops, having been let out by the manufacturers who cut the cloth and who, as above described, finance the entire process. The areas (not clearly defined) which employ the practice and use of the contract shop method of production are sometimes referred to as the "centralized areas" as distinguished from the plants, ordinarily found in small towns and cities, which produce the entire garment, and are described as the "decentralized areas." It is emphasized for certain purposes that the plants in the "decentralized areas" are highly integrated and usually employ highly sub-divided processes of manufacture.

In addtion to these two types of establishments which are most prevalent in the Men's Clothing Industry, there are found other classifications of considerable importance. They are as follows:

1. The Manufacturer-Distributor.

This type of establishment, in addition to the manufacturing plant, owns and operates selling outlets through which it disposes of its products direct to consumers. This distributing function is done either through ownership of chaines of clothing stores or by mail order sales.

(*) For a breakdown of establishments between regular factories and contract shops, see Table I

2. The "Integrated" Manufacturer.

In this type of establishment the entire manufacturing process is usually carried out in one plant under a single management which also sells the product to wholesaler or retailers.

3. The Tailor-to-the-Trade Establishment.

This type of establishment manufactures under factory methods clothing taken on order from retailers. The retailer either specializes in a special size, style and quality or takes orders from customers on a made-to-measure basis. The "special-order" houses met this demand by having developed an ability to produce special order garments at factory costs.

B. Technology.

The division of labor first developed in the Clothing Industry by German tailors around the middle of the nineteenth century has developed in some of the present day manufacturing establishments until there are as many as 168 operations in the making of an overcoat. This development has made for greater efficiency in terms of labor output and has made possible the utilization of labor of varying degrees of skill. (*)

While there are many operations in the making of a garment, depending in part upon the type of manufacture employed, these operations can be divided into a few distinct occupational groups, the principal groups being cutters, fitters, sewing machine operators, pressers, basters, hand sewers, shapers, bushelers, and tailors. (**)

Despite much progress in division of labor in the Men's Clothing Industry, the advantages of large scale production do not appear very significant. The machinery, and the methods of production do not vary greatly between the small and large establishments. A shop employing fifty people is likely to be found as efficient as a shop employing one thousand. (***)

(*) Martin E. Popkin, "Organization, Management, and Technology in the Manufacture of Men's Clothing." (New York, 1929). Page 257.

(**) Bureau of Labor Statistics, "Wages and Hours of Labor in the Men's Clothing Industry, 1911 to 1930. (Bulletin 557)

(***) Charles E. Zaretz, "The Amalgamated Clothing Workers of America." (New York, 1934.) Page 23

1. Machinery

The last half of the nineteenth century witnessed the introduction of several new machines into the ready-made clothing industry, resulting in a radical departure from old methods of production. (*)

The early sewing machines which had a speed of between 800 and 900 stitches per minute, upon the adoption of mechanical power were made to operate at the rate of 1,200 to 1,500 stitches per minute, and by the year 1900 had attained a speed of 4,000 stitches per minute.

In 1870 the cutting shears were replaced by the knife which could be operated by one person and could cut through 18 or more thicknesses of cloth. In 1872, the power cutting machine was invented by Albion and Wrath of Staten Island. This machine was operated by steam and consisted of a reciprocating vertical blade. Such cutting machines have been successively improved. The first electrically run vertical blade machine, which cuts a maximum thickness of 1½ inches of cloth, was turned out by the Eastman Co. in 1897.

Gas pressing irons were introduced around 1903. These displaced the method of heating irons on a stove or by charcoal. There are now many kinds of pressing machines on the market heated by a compound of air and gas. The method of operation usually provides for a foot-pedal movement which assures by utilizing the weight of the presser, sufficient pressure for the heaviest garment.

Machines for buttonhole-making, button-sewing, pocket-making, cloth examining, sponging, and others have been developed to a high degree of efficiency.

The manner in which the adaptation of machinery to the clothing industry has simplified the processes of manufacture and has increased the efficiency of the manufacturing establishment can be appreciated by brief glimpse at the methods employed in a present day establishment. Following is a resume of the description of the principal operations in a modern establishment which "produces between 6,500 to 7,000 suits per week and employs from 650 to 675 employees": (**)

(*) Charles E. Zaretz, "The Amalgamated Clothing Workers of America." (New York, 1934) Page 20.

(**) H. H. Rosenmond, "Mass Production Cuts Costs in Manufacture of Men's Suits." (Manufacturing Industries, July, 1927, Volume 14, Pages 60-61.)

The departments are so coordinated that if one falls behind it has to work overtime in order that the entire plant is not held up on the following day. Around 6,000 yards of woolens are used per day. Woolens, on delivery, are inspected, measured, and rewound. Woolens are then sponged and shrunk in a machine large enough to handle the company's requirements. After shrinking, the cloth is rewound by a machine which also folds it lengthwise.

Cloth is layed on cutting tables (four, 100 feet long, and six, 60 feet long). As many as 40 double thicknesses of cloth are piled one on another. One man lays out, another chalks the patterns on a marker, a third puts the marker on the pile, and a fourth cuts the lay with electrically driven cutting machines. A trimming department does the same with the linings. The separate piles are taken to the thicketing department, where the different parts are matched for shade, size, lot and corresponding numbers are sewed on each to assure proper assembly. The bundle of parts (coats) are fitted up and are given out for sewing-together.

In the coat-sewing room are 400 sewing machines. Each operator sews only one seam. The different garments pass through the room in a steady stream. Pockets and pocket facings are put together and sewed in another part of the room. A battery of 14 ironers press out underseams with perforated flat irons (gas-heated) served with steam, which is forced through the bottom of the iron through the cloth. Steam and gas are piped directly to the ironing tables. Canvas fronts are basted on by hand and blind-stitched by machine. Two power-driven button-hole machines each cut and sew over 600 holes daily. One sews, then cuts; the other reverses the process by cutting, then sewing. Basteings are removed in the cleaning department. The final process is that of inspection.

For pants, practically the same system is used. The pants department has 100 sewing machines and each worker does a single specific job. Here are four power-driven button-sewing machines. One man with one machine sews buttons on between 500 and 600 pairs of pants per day. Also, there are three button-hole machines and twelve gas-fired steam irons for underseams. The pants department has twelve Hoffman pressers. (The two parts of the Hoffman presser are perforated so that when the garment is laid between and pressure applied, steam can be forced through the upper half and wet cloth, and suction draws the steam and moisture through cloth and lower half.)

The coat-pressing department has 58 Hoffman pressers. Each coat passes through seven pressers, each operator pressing only one part.

Vests are made in a separate plant.

II. FINANCIAL ASPECTS OF THE INDUSTRY (*)

A. Investment in Industry

No statistics are available to portray accurately the relative standing of the Men's Clothing Industry from the viewpoint of capital investment. Inferentially, it may be determined by applying an acceptable ratio of capital turnover to volume, based upon an experience average obtained from a study of known operations of representative groups. By this process approximately a 4 times turnover appears applicable to the year 1934, and an aggregate capital investment in the Industry may be conservatively estimated at not less than $100,000,000, notwithstanding the inroads on capital during the depression years.

B. Mortality

In five primary divisions of the Apparel Industry, manufacturers of men's wear, of which clothing as contemplated within this study is of major importance, ranked in the central position as reflected in the percentage of failures in proportion to the number of concerns operating in the three years prior to 1931.

Arranged in order of highest average failures in those years, the records of the broad industry subdivisions are: (**)

	1928	1929	1930
Manufacturers - Coats and Suits -	5.2%	5.7%	7.9%
Manufacturers - Dresses and Ensembles -	4.2	4.9	8.3
Manufacturers - Men's Wear -	3.2	2.3	5.5
Wholesalers - Dry and Knit Goods -	2.2	2.9	3.3
Miscellaneous Cottons -	1.6	1.3	2.4

(*) Adapted from a survey made by A. A. Fisher (N.R.A. staff) during the fall of 1935. In view of the limited statistical data available on certain financial aspects and problems of the Industry considered herein, it was necessary for Mr. Fisher to rely principally upon authoritative statements made to him during a personal survey in New York. "Highly qualified and responsible sources contributed freely from their own studies and experience, with the implied understanding that names of individuals and institutions consulted would not be recorded unless specifically authorized. Those consulted were outstanding members of the Industry, trade association executives, bankers, factors' credit officers, and certified public accountants, especially conversant with the manufacturers' financial problems." (A.A. Fisher)

(**) Twelve Discussions on Fundamentals of Credit, R. G. Dun and Company, New York, 1931, p. 15.

While the foregoing indicates an increase in percentages of failures in the men's wear group to 5.5% in 1930, it must be understood that included therein were manufacturers of shirts, underwear, pajamas, etc. Woolen outer-clothing is the outstanding product of men's clothing manufacturers, with which this study is concerned, and their failures in proportion to number in the Industry are recorded at 7% in 1930, 8% in 1931, and higher in 1932. (*)

Stable as the Men's Clothing Industry is, compared with the more volatile women's garment industries, - infinitely more sensitive to the vagaries of style, - a fairly high mortality has evidenced itself in recent years. The number of financial embarrassments, resulting in bankruptcies, assignments, or liquidations by trustees, began increasing in the last quarter of 1929, and the trend continued throughout 1932. (**) A substantial drop in failures occurred in 1933 and remained about static during the period of the codes, with some increase noted during the first half of 1935 over the same period of the preceding year.

With new concerns constantly entering the field to fill the gaps, it is estimated that the business life of the average manufacturing unit in the Men's Clothing Industry is seven years. The cause of failure--whether by bankruptcy, or voluntary liquidation by reason of losses and discouragement---is, in the vast majority of cases, a profound lack of ability on the part of management. It takes more than a good cutter and an able salesman to operate successfully in the clothing business. One or the other, or a third member of the firm, should be a capable executive experienced in financial management, or the enterprise is foredoomed to failure. A contributing cause of failure may be inadequate capital; but here again, efficient management would have kept a tighter control over what capital was available and trimmed sails accordingly.

(*) See Table XII, indicating a quarterly record of number of business embarrassments and the amount of liabilities of men's clothing manufacturers covering the period from 1928 through the second quarter of 1935, prepared from data supplied by the Research Department, National Credit Office, Inc., New York.

(**) See Table XII.

TABLE XII

Men's Clothing Manufacturers

Number of Business Embarrassments (*)

(Bankruptcies - Assignments - Trustees)

Year	1st Qu.	2nd Qu.	3rd Qu.	4th Qu.	Total	% of Total in Industry
1928	18	20	14	33	85	3.8%
1929	15	11	8	24	58	2.6
1930	49	32	17	34	132	7.0
1931	35	24	33	61	153	8.0
1932	56	39	32	41	168	
1933	15	25	11	9	60	
1934	9	4	10	11	34	
1935	13	11				

Amount of Liabilities in Embarrassments (*)

(000 omitted)

1928	$880	$1,010	$625	$1,420	$3,935
1929	722	941	217	1,600	3,480
1930	3,727	2,175	590	2,018	8,510
1931	1,890	827	1,730	2,555	7,002
1932	2,754	2,992	1,742	967	8,455
1933	574	596	182	212	1,364
1934	334	60	346	240	980
1935	230	250			

(*) (*) Source: Research Department, National Credit Office, In.
New York City

C. Capital and Turnover.

As in other needle industries, there is practically no minimum capital requirement for a manufacturing wholesaler of men's clothing to set himself up in business. With a rented loft, a pair of shears and a cutting table, a cutter and a salesman are in business. Piece goods may be obtained on credit from a commission house or jobber; samples are cut and given to an outside manufacturer, or contractor, who is paid for his labor. If the samples are favorably received and orders result, more materials are obtained on credit and the process repeated with the contractor. With no more than $2,000 to $5,000 capital such a small concern, if commitments are limited to business obtained from sample showing to sound retailers, may thrive in capable hands.

1. Contractor's Investment.

The investment of the contractor or sub-manufacturer may be even lower than that of the wholesaling cutter. Some contract shops have not over $500 invested in sewing machines, etc. These may be rented or purchased second-hand. The cut material is furnished by the wholesaler, who engages his services and pays for the labor operations, including the contractor's overhead expenses and profit, if any. The facility with which an experienced operator may enter the garment manufacturing business on very small capital gives him this election: If he has insufficient funds to establish an inside shop, and still an amount inadequate to form the base of a wholesaling cutter's credit with piece-goods suppliers, then he becomes a contractor. There are many exceptions to the rule. The contractor may have a considerable investment in his plant, and in some cases even assist in financing the manufacturer or cutter employing him, by not requiring prompt payment of the weekly labor payroll. Most of the larger contract shops have been established in outlying districts adjacent to metropolitan areas, with lower rents and expectancy of cheaper labor costs. Without a comprehensive survey it would be difficult to place an estimate on the average or total capital employed by contractors in this Industry.

2. Manufacturer-Wholesaler's Investment Turnover.

Regular manufacturer-wholesalers are of two types: (a) Stock Houses, which manufacture quantities for their own stock and sell to retailers and jobbers as the goods are needed, and (b) Order Houses which manufacture only against orders secured in advance of the season. Most Stock Houses have their shops on their own premises or under their immediate control. These are frequently referred to as "inside" shops, as distinguished from the contractors' "outside" shops. Order Houses, though some may operate "inside" shops, usually restrict their manufacturing operations to cutting and utilize the contractors' "outside" shops for making the garments.

Obviously the Stock Houses' capital needs are greater to carry heavier inventories than are those of Order Houses. So, too, the plant and machinery investment in the inside shop requires a larger capital than may be required by the manufacturer employing contractors or sub-manufacturers.

To establish an inside shop the manufacturer is unwise to start with less than $50,000. Even then his success is doubtful except under most favorable conditions because of inherent incidental expenses. $75,000 is considered none too much to start on in this business. Turning his capital actively in each of two seasons, a successful manufacturer may do a gross volume of $600,000 on an investment of $75,000. There are members of the Industry, however, manufacturing in their own factories, who have a total capital investment in excess of $10,000,000.

It is worthy of note that in the "boom" period preceding the recent depression, a movement developed, aided by investment bankers, for consolidation of various units within the Industry. Large scale production was expected to bring increased profits through the advantages of bulk purchasing, quantity production, national advertising, market study, scientific sales methods, and establishment of retail branches. Evidently little consideration was given in this program to the disadvantage of tying up a considerable portion of capital in real estate and plant equipment, which obviously slows down the turnover of total capital at the risk of business.

3. Relationship of Sales Volume to Invested Capital.

Turnover to capital or net worth in the period prior to the depression was considered in this Industry to average in the neighborhood of 7 times.(*) While some producers may do better than that today, they are the exception. The concern of medium size appears to have the advantage. A study of financial reports of 229 manufacturers, each with sales less than $1,000,000, whose aggregate volume in 1933 amounted to $51,913,217, or an average of $226,717,(**) indicates a turnover of 3.7 times, nearly half of the theoretical average under normal conditions. For this group a ratio to fixed investment is not available. The rate of turnover seems to be in line, however, with 3.88 times, determined as the average of another grouping of 238 manufacturers who in 1933 had an average fixed asset investment of 9.33% of net worth.(***)

(* D. Richard Young, in article entitled "Profits in the Clothing Industry," American Bankers Association Journal, June, 1938, states National Credit Office calculates inventory turnover for manufacturers of men's clothing at 7.24 times annually.

(** Behind the Scenes of Business, Roy A. Foulke, Manager, Analytical Report Department, Dun and Bradstreet, Inc., 1935, pp. 144-145.

(*** Analysis of Percentages in Robert Morris Associates Statement Studies, 1933.

On the other hand a study of figures of 63 large concerns having a 37% investment in fixed assets indicates a group turnover of only 2.75 times net worth. (*)

The average ratio of profit to turnover varied only 4/10 of 1 per cent in each of the studies cited, whereas the profit to net worth averaged 9.2% in the first instance, 7.18% in the second, and only 3.6% for the smaller group of larger manufacturers. In short, the large firms had all the incidental worries of conducting a large business with a heavy fixed investment, but did not secure a comparable return. The effect of the N.I.R.A., both in the 1933 anticipation and the 1934 operation, upon the net worth and volume of business of 229 identical manufacturers spread throughout the United States, whose 1933 volume was hereinbefore stated, is indicated in part by the following group summary: (**)

	1932	1933	1934
Net Worth Total-	$14,036,370	$15,089,441	$15,645,815
Average-	61,250	65,893	68,322
% Increase over 1932 Net Worth	-	7.6%	11.5%
Net Sales Total-	$40,992,104	$51,918,217	$62,799,692
Average-	179,005	226,717	274,234
% Increase over 1932 Sales-	-	26.7%	53.2%

A breakdown of the foregoing summary by large cities appears in four charts following. (***)

It is noted that the trend was fairly consistent in all areas, except Chicago, where net worth declined 10.8% in 1933, with little change in 1934. The Chicago branche of the Industry was under an exceptional strain during this period when severe losses and readjustments occured among the larger concerns in the entire Industry whose figures

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(*) Analysis of Percentages in Robert Morris Associates Statement Studies, 1933.

(**) A Profit and Loss Survey of Clothing Manufacturers Prepared by the Research and Statistical Division of Dun and Bradstreet, Inc., and National Credit Office, Inc. Tables XIII, XIV, and XV are reproduced from this survey.

(***) See Tables XIII and XIV.

were included in the Cincinnati group showed the largest two years' percentage increase in net worth, with Boston second, and New York third. In increased percentage of volume business, 130 manufacturers in New York had only a .7% advantage over Cincinnati's 5, who in turn bettered Baltimore's 12 manufacturers by .9%.

That the ratio of sales to net worth varies inversely with the size of the concern as measured by net worth, is further illustrated in a breakdown study of 243 manufacturers operating in 1933 with an average net worth of $55,502, and average volume of $218,287, summarized as follows:(*)

Net Worth -	Up to $25,000	$25,000 to $49,000	$50,000 to $74,000	$75,000 and up	Total
No. of Cases	62	93	41	42	243
Ave. Sales	$70,927	$144,121	$237,015	$590,592	$218,287
Ave. N.Worth	15,935	35,510	61,780	154,429	55,502
Turnover Sales N.Worth	4.45	4.06	3.84	3.82	3.93

4. Price Range in Relation to Turnover.

Selection of price range of the product is important in relation to the manufacturer's available capital. Price range may also be determined by location. In recent years there has been a tendency of manufacturers in the higher price line to concentrate in Rochester and elsewhere than New York, where perhaps 40% of the Industry remains largely in the lower and medium classifications.

That turnover of capital is greater in the lower price ranges is indicated in the following breakdown of sales and net worth of 243 manufacturers whose operations in 1933 form part of this study:(**)

(*) See Table XVI, prepared from Statements filed with National Credit Office, Inc., New York.

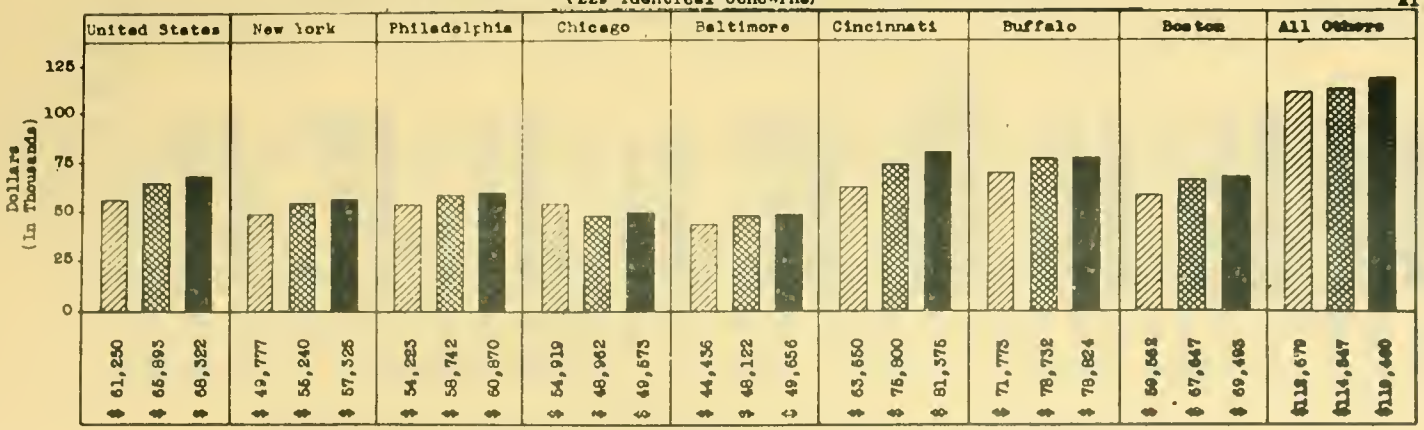
(**) See Table XVII, prepared from statements filed with National Credit Office, Inc., New York.

TABLE XIII

THE NET WORTH OF AN AVERAGE CLOTHING MANUFACTURER

(Also showing the comparison with the average clothing manufacturer in large cities)
(229 Identical Concerns)

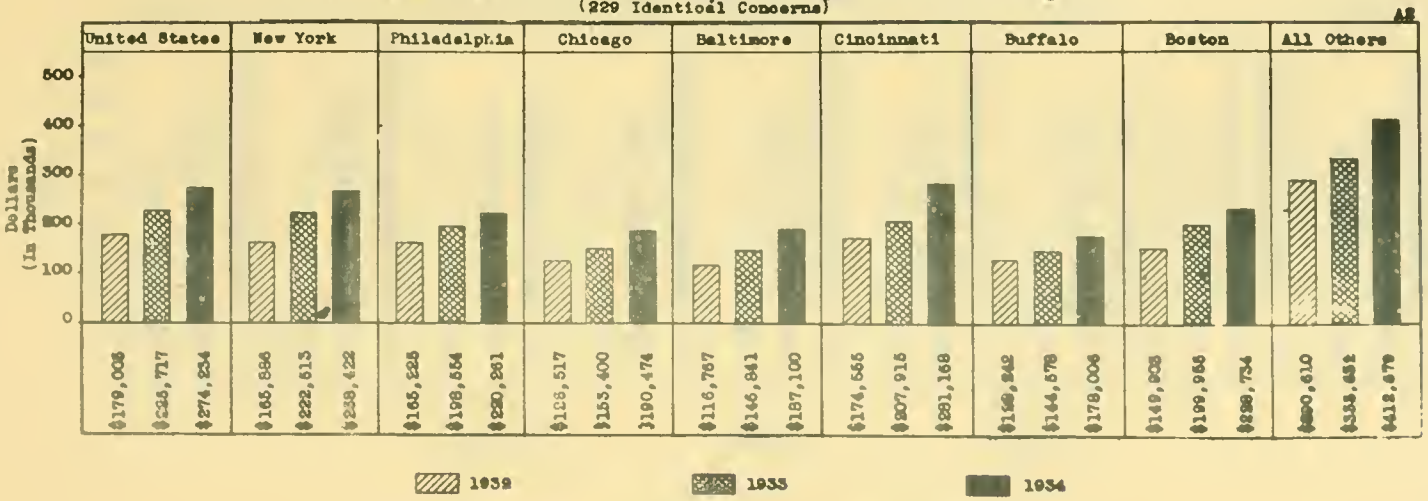
A1



THE NET SALES OF AN AVERAGE CLOTHING MANUFACTURER

(Also showing the comparison with the average clothing manufacturer in large cities)
(229 Identical Concerns)

A2



Number of concerns included in the above data:

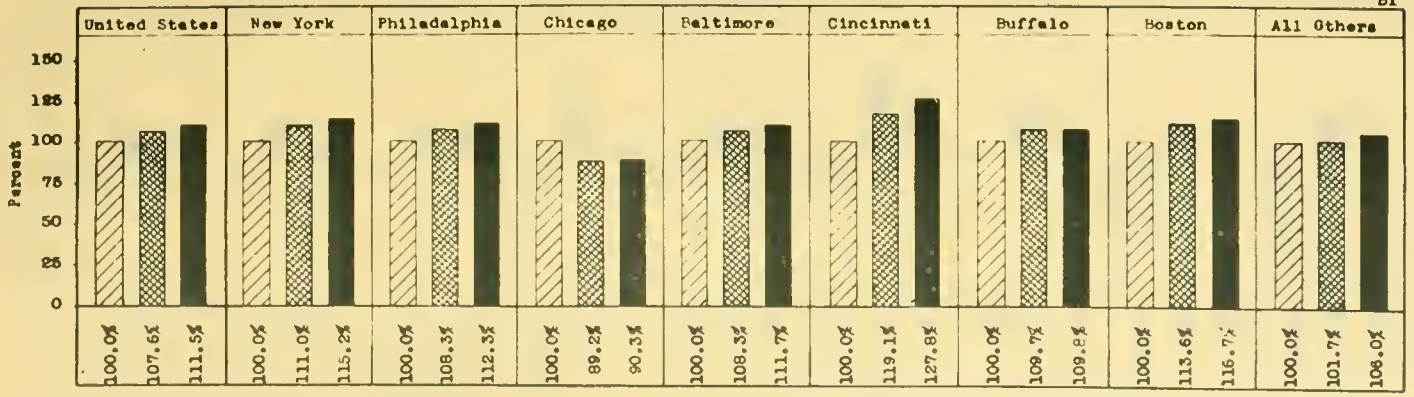
New York	130	Baltimore	12	Buffalo	9
Philadelphia	21	Cincinnati	5	All Others	36
Chicago	8	Boston	9	Total U. S.	229

TABLE XIX

THE PERCENT INCREASE OR DECREASE OVER 1932 IN THE NET WORTH OF AN AVERAGE CLOTHING MANUFACTURER*

(Also showing a comparison of the percent increase or decrease over 1932 of an average clothing manufacturer in large cities)
(229 Identical Concerns)

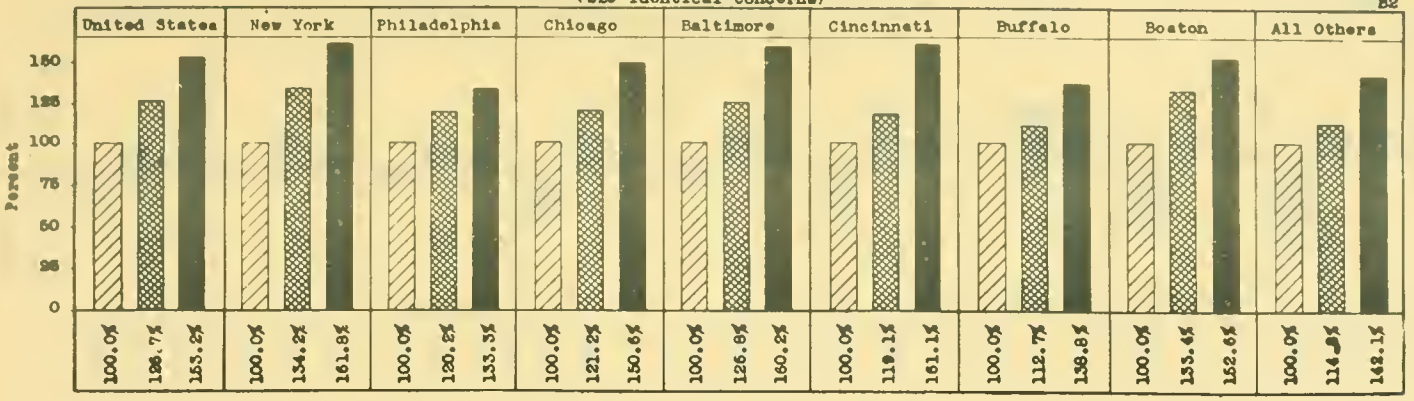
B1



THE PERCENT INCREASE OR DECREASE OVER 1932 IN THE NET SALES OF AN AVERAGE CLOTHING MANUFACTURER*

(Also showing a comparison of the percent increase or decrease over 1932 of an average clothing manufacturer in large cities)
(229 Identical Concerns)

B2



* The percentages are based on the figures in Charts A1 and A2

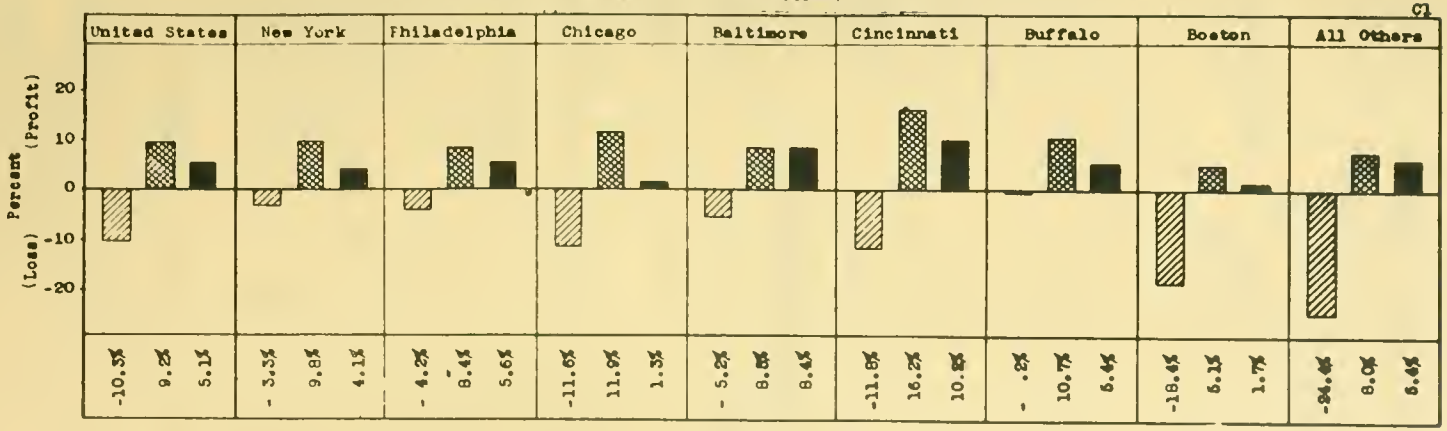
X

TABLE XV

THE NET RETURN ON INVESTMENT OF AN AVERAGE CLOTHING MANUFACTURER

(Also showing the comparison with the average clothing manufacturer in large cities)
(229 Identical Concerns)

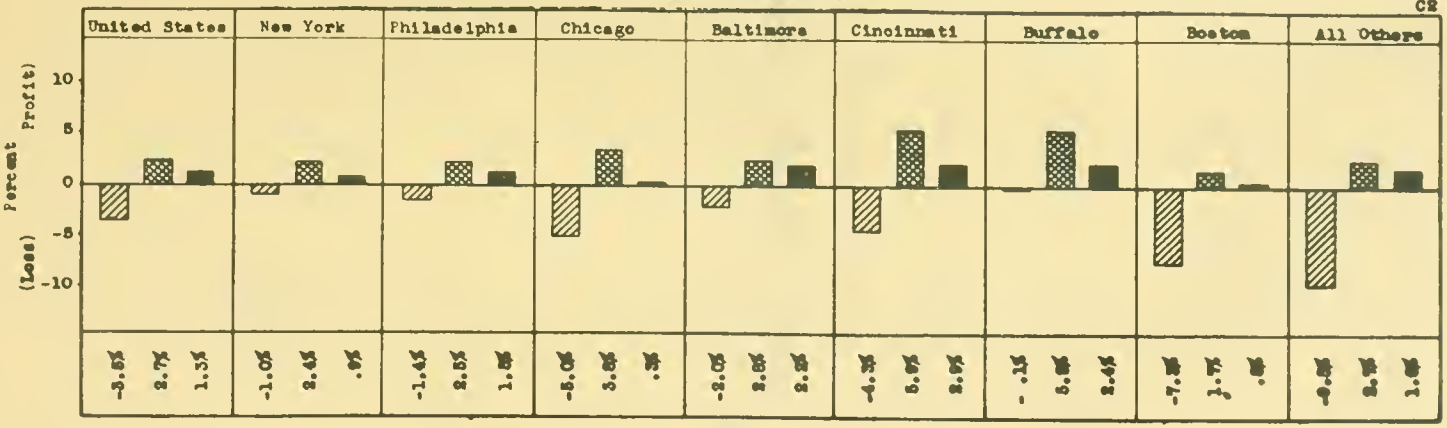
C1



THE PERCENT PROFIT OR LOSS ON SALES OF AN AVERAGE CLOTHING MANUFACTURER

(Also showing the comparison with the average clothing manufacturer in large cities)
(229 Identical Concerns)

C2



1932 1933 1934

Number of concerns included in the above data:

New York	130	Baltimore	12	Buffalo	9
Philadelphia	21	Cincinnati	5	All Others	35
Chicago	8	Boston	9	Total U. S.	229

TABLE XVI

OPERATING COSTS IN THE MEN'S CLOTHING INDUSTRY

BASED ON A STUDY OF 243 MANUFACTURERS WITH SALES OF $53,043,862 FOR 1933

Breakdown According to Net Worth

Net Worth	Up to $25,000	$25,000 to $49,000	$50,000 to $74,000	$75,000 and up	Total
No. of Cases	62	98	41	42	243
Ave. Sales	$70,927	$144,121	$237,015	$590,592	$218,287
Turnover (Sales N.W.)	4.45	4.06	3.84	3.82	3.93
Ave. Net Worth	$15,935	$35,510	$61,780	$154,429	$55,502
Operating Costs in Terms of Percentage of Sales					
Material	49.16	49.93	51.98	44.70	51.57
Labor	32.93	33.95	31.78	39.12	31.85
Cost of Goods Sold	82.09	83.88	83.76	83.82	83.42
Gross Profit on Goods Sold	17.91	17.12	16.24	16.18	16.58
Expenses & Salaries	14.51	13.50	12.54	11.69	13.56
Bad Debts & Depreciation	1.20	1.34	1.64	1.50	1.46
Other Income	.10	.18	.19	.31	.24
Other Expense	.22	.20	.28	.73	.46
Net Profit	2.08	2.26	1.97	2.57	3.34
No. Concerns Showing Profit	49	89	39	39	216
Percent of Concerns Showing Profit	79.03	90.82	95.12	92.86	88.89

Source: National Credit Office, Inc., New York City.

Price Range-	Up to $10.00	$10.50 to $15.00	$15.50 to $22.50	$22.50 and up	Total
No. of Cases-	56	77	87	23	243
Average Sales-	$238,729	$228,045	$210,360	$165,833	$218,287
Av. Net Worth-	49,554	60,481	54,399	57,870	55,502
Turnover Sales/Net Worth-	4,82	3.77	3.87	2.87	3.93

D. Financing.

1. Sources of Capital.

Up to twenty or twenty-five years ago the men's clothing manufacturers were mainly German immigrants who were capable business men with a thorough knowledge of their craft. They invested their own money, developed their establishments carefully and well within their own control. Gradually immigrant infiltration brought many Russian Jews into the business, to a large extent replacing the more stolid German element. Prior to 1928 investment bankers succeeded in effecting a number of mergers of the old established businesses into some of the larger units of today. The tendency, however, has been to keep the business under family control, but the majority of those in business today have proportionately less of their own and family funds at the risk of the business.

2. Sources of Credit--Merchandise Suppliers and Banks.

There is a heavy leaning upon merchandise credits and bank loans. The latter formerly consisted of short term borrowing, during the height of the selling season, to liquidate maturing merchandise bills and secure the advantages of discounts. Loans were promptly repaid as customers' accounts were collected. For reasons hereinafter stated, the manufacturer's bank today is practically a partner in the business through the continuous holding of the concern's notes, usually endorsed by the principals.

3. Terms Granted by Mills.

Woolens and worsteds were formerly bought by the clothing manufacturer on terms ranging from 30 days to 4 months. Usually season's datings were given with Spring bills coming due in April or May, and Fall bills in October or November. Cotton linings were purchased on a ten and sixty-day basis. Under the codes, the discount on woolens was withdrawn and terms fixed at sixty days net. As the cost of material represents approximately fifty percent of the selling price of a man's suit, it is obvious that the shortening of buying terms slows down the capital turnover and presents the manufacturer with the necessity of procuring longer and more continuous banking

TABLE XVII

OPERATING COSTS IN THE MEN'S CLOTHING INDUSTRY

BASED ON A STUDY OF 243 MANUFACTURERS WITH SALES OF $53,043,862 FOR 1933

Breakdown According to Price Range

Price Range	Up to $10.00	$10.50 to $15.00	$15.50 to $22.50	$23.50 & Up	Total
No. of Cases	56	77	87	23	243
Average Sales	$238,729	$ 23,045	$210,360	$165,833	$218,287
Turnover (Sales/NW)	4.82	3.77	3.87	2.87	3.93
Average Net Worth	$49,554	$60,481	$54,299	$57,870	$55,502
Operating Costs in Terms of Percentage of Sales					
Material	55.93	53.83	48.76	39.32	51.57
Labor	30.92	30.03	33.63	35.00	31.85
Cost of Goods Sold	86.85	83.86	82.39	74.32	83.42
Gross Profit on Goods Sold	13.15	16.14	17.61	25.68	16.58
Expenses & Salaries	9.93	11.19	13.62	23.01	12.56
Bad Debts & Depreciation	.97	1.72	1.55	1.57	1.46
Other Income	.16	.23	.20	.70	.24
Other Expense	.21	.68	.42	.49	.46
Net Profit	2.20	2.78	2.22	1.31	2.34
No. Concerns Showing Profit	54	69	75	18	216
Percent of Concerns Showing Profit	96.43	89.61	86.21	78.26	88.89

Source: National Credit Office, Inc., New York

accommodation, or increasing his capital investment, which few have been able to do.

There have always been variations in terms, even under the codes. Today some manufacturers are given extra dating on woolens by special arrangement, and lining terms recently have become more liberalized at 2 off, 4 months, or 3 off 10 days for anticipation.

(a) Effect of Selling Policy of Mills.

The selling policy of woolen mills in recent years has been an important factor in increasing the financial burdens of the clothing manufacturer. Whereas the mill formerly manufactured for stock and assumed a larger share of financing the merchandising cycle from raw material to consumer goods; today, the mills put the raw wool in process only on orders from the piece goods buyers, such as the clothing manufacturers, which take six to eight weeks to fill.

With his commitment made well in advance of receipt of retailers' orders and the requirement of paying for this material in 60 days from delivery, the clothing manufacturer has been obliged to increase his investment in inventory in order to show a full line of assorted styles and sizes to the retail buyer. In addition the clothing manufacturer must increase his payroll disbursements by starting cutting two to five weeks earlier than was necessary up to about two years ago, when the Code fixed a 36-hour maximum working week. The average period for the production of a suit from the cutting operation to the completion thereof has increased from about two weeks to nearer four weeks.

While the regular mill terms are net sixty days, with one percent discount allowed for payment within ten days, the financial burdens of the average manufacturer are such that time for payment is more important than the discount. Only those who are in a fortunate position are able to take advantage of the discount privilege. In fact, the concession made to a manufacturer of the highest financial standing is an extra sixty days which is granted by the mills subject to payment of an interest charge of six percent per annum. Those happily in funds or with available lines of bank credit are able to earn six percent by anticipating payment within the regular sixty day terms.

4. Governmental Aid.

During the depression, Governmental agencies were appealed to in numerous instances, but on the whole the nature of the assets were such that dependence rested mainly with the existing bank relationship. Records of the Reconstruction Finance Corporation (*) indicate that from June 19, 1934, to June 30, 1935, loans were authorized to only

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(*) See Table XVIII.

TABLE XVIII
RECONSTRUCTION FINANCE CORPORATION

LOANS AUTHORIZED (AND COMMITMENTS OUTSTANDING AS OF JUNE 30, 1935) TO INDUSTRIAL OR COMMERCIAL BUSINESS UNDER SECTION 5d OF THE RECONSTRUCTION FINANCE CORPORATION ACT, AS AMENDED (INCLUDING PURCHASES OF PARTICIPATION, AND AGREEMENTS TO PURCHASE PARTICIPATIONS, IN LOANS), BY INDUSTRIES.

From June 19, 1934, to June 30, 1935, Inclusive.

Industry	Number of Borrowers(*)	Percent of Total	Amount Authorized	Percent of Total
Manufacturing				
Textiles & Their Products	153	12.8	$16,867,300.00	23.9
Men's Clothing and Furnishings	20	1.7	799,000.00	1.1
Men's Clothing	7	.6	473,500.00	.7
Women's Clothing and Furnishings	18	1.6	146,950.00	.2
Grand Total of All Loans Authorized to Industrial or Commercial Business	1,196	100	70,538,696.87	100

(*) Number of borrowers represents the number of applicants to whom loans have been authorized or commitments made.

Source: Compiled from Information received from the R. F.C.

seven men's clothing manufacturers. This represented .6% of the total number of borrowers from this Federal agency, in an authorized amount of $473,500, or less than .7% of the grand total of all authorized R. F.C. loans during this period.

5. Selling Terms

The highly competitive nature of this Industry, and probably in part due to the four months' terms formerly granted by the fabric mills, has resulted in the extension of fairly long terms to retailers who have not been slow to seize their advantage. Usual selling terms to the average retailer are 2%, 60 days, but not infrequently the retailer unfairly takes 30 days extra and still deducts 2% discount. The manufacturer, fearing to lose business to competitors, accepts the added financing burden. Terms to large department stores and big chain buyers run from 5% to 7% discount for end-of-month payment. During the depression the manufacturer not selling in large volume to department stores and chains has had to absorb substantial bad debt losses through the failure of many small retailers.

(a) Seasonal Activity Changes.

One of the important changes which has taken place in the Men's Clothing Industry is that of seasonal activity. Formerly the manufacturers' producing as well as selling seasons were distinctly two a year. The factory working periods were of four months' duration twice a year; that is, the expenditure for materials and labor produced finished merchandise which was sold and paid for by the retailer within a period which enabled the liquidation of indebtedness and an accounting of the season's net profit or loss twice each year. This fostered a generally high state of liquidity in a stable business. The successful manufacturer was a favored customer of his bank which extended his credit requirements during the seasonal peaks and twice a year he was wholly out of debt, except for purchase commitments for the next season's required materials not as yet taken into his inventory figures.

Today, with less favorable arrangements with the mills, higher labor costs, and shorter working weeks, most manufacturers of men's clothing find themselves producing garments twelve months a year, largely for stock, with two selling seasons, and no period when the average plodding manufacturer is able to liquidate a sufficient proportion of his larger inventories to get out of debt to his bank.

(b) Working Capital.

An analysis of end-of-the-season statements submitted by 126 manufacturers for 1931, 167 for 1932, and 238 for 1933, indicated a three-year average ratio of 56.6% of the working capital represented by inventory for the first two years, and 72% at the end of 1933.*

(*) Behind the Scenes of Business, Roy A. Foulke, Manager, Analytical Report Department, Dun and Bradstreet, Inc., pp. 144-145.

Under present conditions it is conservative to say there has been an increase over former periods of at least one-third of the average menufacturer's working capital constantly tied up in inventory, subject to the vagaries of markdowns due to competitive conditions or declining prices in woolens. In brief, he requires no less than one-third additional capital today to do the same volume of business as formerly, and operating results during recent years have not made that needed increase in capital available.

The working capital problem may be epitomized thus: Prior to 1933, at the peak of the two seasons, total indebtedness averaged two to three times working capital, and dropped in June and December substantially to an offset of one for one. In the Fall of 1935, liabilities ranged three to six times working capital for the average clothing manufacturer, with no indication under existing conditions that these ratios can be reduced.

Prior to 1933, May ended the Spring operating season, which commenced about January 15. During June and half of July, there were no manufacturing operations at all. This month and a half represented the period during which liabilities were liquidated by funds collected from accounts receivable built up during the Spring operating season. With liabilities at the lowest point, Fall operations began about June 15, and continued until just prior to December 1st. December and the first half of January represented the second annual liquidation period.

Today the cutting of Fall merchandise commences the first week in June and collections from accounts receivable, created by the Spring business, are used to finance Fall operations for merchandise, labor, and expenses. The same process occurs with advancing the Spring cutting to January and for the larger manufacturer, as early as October. This continuous operating process, with heavier inventories, results in a constant renewal of bank loans. The larger manufacturer, using more than one bank, is able to maintain a higher credit standing by rotating his bank loans, borrowing from one bank to pay off another.

E. Labor Costs

Since the practical elimination of the sweat shop, highly skilled garment workers in the concentrated and strongly unionized areas of New York, and certain other large producing localities, have enjoyed steady and substantial increased rates of pay. These are naturally reflected in the production costs of the garment and must be provided for in the weekly payroll. As increased prime costs-material and labor-accentuate the financing requirements of the manufacturer, so, too, they increase his burden when buying resistance develops to his attempt to increase prices. As there remain some important areas where labor is less highly organized, and rates of pay are lower, competition from such sources facilitates the sales resistance to the product of the unionized shop.

It has been pointed out herein that the average gross profits on sales is around twelve per cent. That means the cost of production

alone is, on the average, approximately eighty-eight per cent of net sales. Operating figurers of 243 manufacturers previously referred to in this chapter* indicated that in 1933 the average cost of direct labor in relation to sales value of product, amounted to 31.85%, and ranged according to price lines and other factors from 30.03% to 39.12% in that year. An important effect of the codes was a further increase in labor costs. Evidence of the trend is found in a comparison of the "Common Size" Profit and Loss Statements,** of men's clothing manufacturers, computed from a limited number of operating statements submitted for this purpose. Direct labor, which in 1929 figured 16.57% of net sales, increased by 1934 to 29.50%, an indicated increase of nearly 78% in five years. As a correlary, competitive conditions have caused many manufacturers to seek means of reducing labor costs. Attempts at downward reduction of rates or increased production per man hour for the established rates usually result in disturbances of production programs and incidental expenses which more than nullify any apparent success attending the employer's effort. His next thought is migration to a less highly organized area, where cheaper labor may be had.***

III. RAW AND SEMI-PROCESSED MATERIALS

The principal materials used in the Men's Clothing Industry are woolen suitings and pantings, flannel suitings and pantings, top-coatings, overcoatings, worsted staple suitings and pantings, and fancy suitings and pantings.

A. Cost of Materials.

The value and volume of the total production of the raw materials named above for the years 1929, 1931, and 1933, is shown in Tables XX, XXI, and XXII. It is reasonable to assume that practically all the fabrics classified in these tables enter into the production of men's clothing; however, one cannot be certain of the exact amount which is utilized by that portion of the Industry under survey.

An analysis of the tables showing the production and distribution of the fabrics used by the Men's Clothing Industry reveals a wide fluctuation in both volume and value of these raw materials between the years 1929, 1931, and 1933. The total value of woolen and worsted fabrics declined from $321,242,000 in 1929 to $179,772,000 in 1931 and to $157,602,300 in 1933. In terms of square yards the produced woolen and worsted fabrics totaled 283,070,000 in 1929, but registered a sharp drop to 170,200,000 in 1931. The decline in s yardage was reversed by 1933 as

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(*) See Tables XVI, XVII, and XIX.

(**) Statement Studies, the Robert Morris Associates, 1929, 1930, 1932, 1933, 1934.

(***) See Section VIII of this Chapter.

TABLE XIX

OPERATING COSTS IN THE CLOTHING INDUSTRY

BASED ON A STUDY OF 243 MANUFACTURERS WITH SALES OF $53,043,862 FOR 1933.

COMPARISON OF PROFITABLE AND UNPROFITABLE MANUFACTURING

NET WORTH	Less Than $25,000		$25,000 and Up	
	Losing	Profiting	Losing	Profiting
No. of Cases	13	49	14	167
Average Sales	$47,904	$77,282	$165,291	$277,445
Turnover Sales/NW	3.58	4.64	3.07	3.94
Average Net Worth	$13,385	$16,635	$53,800	$70,335
Operating Costs in Terms of Percentage of Sales				
Material	47.76	49.39	45.21	52.12
Labor	32.00	33.09	35.16	31.58
Cost of Goods Sold	79.76	82.48	80.37	83.70
Gross Profit on Goods Sold	20.24	17.52	19.63	16.30
Expenses and Salaries	20.99	13.45	17.70	12.12
Bad Debts and Depreciation	2.13	1.04	2.22	1.44
Other Income	.09	.10	.33	.24
Other Expense	.20	.22	1.09	.45
Net Profit		2.91		2.53
Net Loss	2.99		1.05	
Percent making Profit		79.03		92.27
Percent suffering Loss		20.97		7.73

Source: National Credit Office, Inc., New York

TABLE XX

MEN'S CLOTHING INDUSTRY

Production of Principal Materials Used, by Kind and State, 1929

Kind and State	1929					
	Pounds		Square Yards		Value	
	Thousands	Per Cent of Total	Thousands	Per Cent of Total	Thousands of Dollars	Per Cent of Total
Men's Wear Fabrics						
Woolen, total	81,630	100.0	105,752	100.0	121,568	100.0
Suitings and pantings (except flannels), total	34,802	42.6	51,496	48.7	52,750	43.4
Connecticut	3,423	4.2	4,683	4.4	5,316	4.4
Maine	6,939	8.5	10,960	10.4	9,249	7.6
Massachusetts	8,067	9.9	10,504	9.9	12,435	10.2
Michigan	193	.2	237	.2	304	.3
New Hampshire	3,096	3.8	4,765	4.5	3,984	3.3
New York	2,155	2.6	2,644	2.5	4,306	3.5
Pennsylvania	1,450	1.8	2,243	2.1	1,773	1.5
Vermont	543	.7	730	.7	793	.6
Other States	8,936	10.9	14,730	14.0	14,590	12.0
Flannel suitings and pantings, total	2,099	2.6	3,929	3.7	4,204	3.5
Maine	292	.4	521	.5	667	.6
Massachusetts	589	.7	1,091	1.0	1,068	.9
Other States	1,218	1.5	2,317	2.2	2,469	2.0
Topcoatings, total	5,332	6.5	7,068	6.7	10,315	8.5
Connecticut	1,184	1.4	1,437	1.3	2,251	1.9
Maine	330	.4	382	.4	662	.5
Massachusetts	909	1.1	1,270	1.2	1,590	1.3
Other States	2,909	3.6	3,979	3.8	5,812	4.8
Overcoatings, total	21,664	26.6	18,626	17.6	25,019	20.6
Connecticut	2,054	2.5	2,171	2.1	3,569	2.9
Maine	1,420	1.7	1,103	1.1	2,885	2.4
Massachusetts	11,718	14.4	9,453	8.9	11,482	9.5
Oregon	1,932	2.4	1,575	1.5	1,351	1.1
Rhode Island	882	1.1	1,318	1.2	868	.7
Vermont	985	1.2	827	.8	907	.8
Wisconsin	680	.8	540	.5	632	.5
Other States	2,013	2.5	1,639	1.5	3,325	2.7
Uniform cloths, total	2,566	3.1	3,524	3.3	6,863	5.6
Massachusetts	754	.9	965	.9	1,609	1.3
New Hampshire	12	a/	20	a/	23	a/
Other States	1,800	2.2	2,539	2.4	5,231	4.3
Other	15,147	18.6	21,109	20.0	22,417	18.4
Worsted, total	72,607	100.0	130,318	100.0	199,674	100.0
Staple, suitings and pantings, total	35,100	48.3	60,316	46.3	89,095	44.6
Massachusetts	12,344	17.0	25,134	19.3	33,061	16.5
Pennsylvania	3,502	4.8	6,782	5.2	10,767	5.4
Rhode Island	13,390	18.4	16,471	12.6	31,785	15.9
Other States	5,864	8.1	11,929	9.2	13,482	6.8
Fancy suitings and pantings, total	33,756	46.5	62,495	48.0	99,895	50.0
Connecticut	2,275	3.1	4,033	3.1	7,121	3.6
Massachusetts	11,604	16.0	22,207	17.0	34,375	17.2
New Jersey	2,010	2.8	3,978	3.1	6,398	3.2
New York	2,614	3.6	5,326	4.1	7,496	3.8
Pennsylvania	2,420	3.4	3,369	2.6	7,237	3.6
Rhode Island	8,495	11.7	15,474	11.9	25,440	12.7
Other States	4,278	5.9	8,108	6.2	11,828	5.9
Uniform Cloths	1,418	1.9	2,525	1.9	4,232	2.1
Topcoatings	54	.1	96	.1	153	.1
Overcoatings	485	.7	645	.5	1,095	.6
Other	1,794	2.5	4,241	3.2	5,204	2.6

SOURCE: Census of Manufactures, 1929, Vol. II, pp. 415, 416. Data are for Census classification "Woolen Goods and Worsted Goods." They do not include establishments with annual production valued at less than $5,000.

a/ Less than .1 per cent.

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TABLE XXI

MEN'S CLOTHING INDUSTRY

Production of Principal Materials Used, by Kind and State, 1931

KIND AND STATE	1931					
	Pounds		Square Yards		Value	
	Thousands	Per Cent of Total	Thousands	Per Cent of Total	Thousands of Dollars	Per Cent of Total
Men's Wear Fabrics						
Woolen, total	41,814	100.0	58,723	100.0	55,080	100.0
Suitings, and pantings (except flannels), total	17,347	41.5	29,404	50.1	23,128	42.0
Connecticut	1,267	3.0	2,333	4.0	2,040	3.7
Maine	2,153	5.1	3,894	6.6	2,415	4.4
Massachusetts	4,298	10.3	7,016	12.0	5,858	10.6
Pennsylvania	736	1.8	1,005	1.7	1,178	2.1
Vermont	834	2.0	1,086	1.8	524	1.0
Other States	8,059	19.3	14,070	24.0	11,113	20.2
Flannel suitings and pantings, total	2,831	6.8	4,699	8.0	4,260	7.7
Massachusetts	922	2.2	1,164	2.0	1,299	2.3
Other States	1,909	4.6	3,535	6.0	2,961	5.4
Topcoatings, total	3,862	9.2	5,027	8.6	5,267	9.6
Connecticut	826	2.0	1,136	1.9	1,405	2.6
Massachusetts	660	1.6	818	1.4	806	1.5
Other States	2,376	5.6	3,073	5.3	3,056	5.5
Overcoatings, total	9,879	23.6	8,213	14.0	10,666	19.4
Connecticut	1,741	4.2	1,465	2.5	2,217	4.0
Maine	705	1.7	633	1.1	1,218	2.2
Massachusetts	4,479	10.7	3,578	6.1	3,949	7.2
Rhode Island	368	.9	238	.4	306	.8
Other States	2,586	6.1	2,299	3.9	2,976	5.4
Uniform cloths, total	1,900	4.6	2,421	4.1	3,353	6.1
Massachusetts	357	.9	435	.7	620	1.1
Other States	1,543	3.7	1,986	3.4	2,733	5.0
Other	5,995	14.3	8,959	15.2	8,406	15.2
Worsted, total	61,131	100.0	112,177	100.0	124,692	100.0
Staple, suitings and pantings, total	29,086	47.6	53,796	48.0	55,856	44.8
Massachusetts	12,578	20.6	23,627	21.1	24,093	19.3
Rhode Island	8,746	14.3	15,652	14.0	17,170	13.8
Other States	7,762	12.7	14,517	12.9	14,593	11.7
Fancy suitings and pantings, total	28,282	46.3	52,000	46.3	62,049	49.8
Connecticut	1,439	2.4	2,442	2.2	3,253	2.6
Massachusetts	8,846	14.5	17,035	15.2	21,578	17.3
New Jersey	629	1.0	1,133	1.0	1,461	1.2
New York	1,486	2.4	2,890	2.6	2,981	2.3
Pennsylvania	3,241	5.3	5,758	5.1	7,579	6.1
Rhode Island	8,637	14.1	15,031	13.4	18,788	15.1
Other States	4,004	6.6	7,711	6.8	6,409	5.2
Uniform cloths	1,738	2.8	2,452	2.2	3,213	2.6
Topcoatings	1,619a/	2.6	3,127a/	2.8	2,791a/	2.2
Other	406	.7	802	.7	783	.6

SOURCE: Census of Manufactures, 1931, p. 367. Data are for Census classification "Woolen Goods and Worsted Goods." They do not include establishments with annual production valued at less than $5,000.

a/ Topcoatings, overcoatings, other worsted men's wear fabrics, and auto cloths.

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TABLE XXII

MEN'S CLOTHING INDUSTRY

Production of Principal Materials Used, by Kind, 1933

Kinds	1933					
	Pounds		Square Yards		Value	
	Thousands	Per Cent of Total	Thousands	Per Cent of Total	Thousands of Dollars	Per Cent of Total
Men's Wear Fabrics						
Woolen, total	58,433	100.0	77,397	100.0	55,813	100.0
Suitings and pantings (except flannels), total	20,526	35.1	33,569	43.4	19,076	34.2
Flannel suitings and pantings, total	5,131	8.8	9,806	12.7	7,415	13.3
Topcoatings, total	7,184	12.3	9,350	12.1	8,387	15.0
Overcoatings, total	20,233	34.6	16,415	21.2	14,084	25.2
Uniform cloths total	1,634	2.8	2,662	3.4	3,211	5.8
Other	3,725	6.4	5,595	7.2	3,640	6.5
Worsted, total	58,157	100.0	105,331	100.0	101,789	100.0
Staple suitings and pantings, total	29,080	50.0	53,425	50.7	48,119	47.3
Fancy suitings and pantings, total	27,613	47.5	49,227	46.7	51,074	50.2
Uniform cloths	543	.9	750	.7	889	.9
Topcoatings	133	.2	186	.2	214	.2
Overcoatings	166 a/	.3	278 a/	.3	287 a/	.3
Other	622	1.1	1,465	1.4	1,206	1.1

Source: Census of Manufactures, 1933, "Woolen and Worsted Goods," p.4
Data are for Census classification "Woolen Goods and Worsted Goods." They do not include establishments with annual production valued at less than $5,000.

a/ Other worsted, including overcoating.

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shown by a total production of 182,728,000 square yards.

B. Source of Materials

A distribution by States of the fabrics used by the Men's Clothing Industry is shown for the years 1929 and 1931 in Tables XX and XXI, respectively. It is readily observed that the bulk of these materials is produced in the States of Massachusetts, Rhode Island, Connecticut, and Maine.

C. Ratio of Materials' Cost to Value of Products.

The percentage which the cost of materials is of the value of products is shown for the years 1929, 1931, and 1933 in Table XXIII. Attention is directed to the fact that "materials" in this table includes fuel and purchased electric energy, as well as the fabrics discussed above. Further, all figures in this table for the years 1929, 1931, and 1933 relate to all types of men's clothing except work clothing, and hence do not conform to the Men's Clothing Industry codal classifications. An examination of the figures showing materials' cost in relation to the total value of product indicates little change in the ratios for the years 1929, 1931, and 1933, which are 48.9 per cent, 47.8 per cent, and 48.2 per cent, respectively.

IV. EMPLOYMENT

In Chapter III, "Pre-Code Problems of the Industry and Writing of the Code," there will be found a review and conclusions respecting employment, wages, and hours in the Men's Clothing Industry prior to the formation of the Code. Chapter V, "Labor Under the Code," contains a summary of changes in labor conditions brought about during the Code period. It is the purpose here to present statistical data showing somewhat in detail, at least for recent years, the varying conditions of employment in this Industry.

Table XXIV, parts A, B, and C shows indexes of factory employment and an estimated number employed for the years 1926-1935, inclusive.* Using 1929 as the base year, it is seen that for the

(*) "The Bureau of Labor Statistics indexes of employment and payrolls have not been adjusted to the 1933 Census. The Census classifications were revised in 1933 to include many operations which are not covered by the B.L.S. sample. Current labor data from the B.L.S. are based upon a sample covering, for employment, payrolls, and average weekly wages, approximately 50 per cent, and for man hours, average hours and average hourly wages, approximately 40 per cent of the wage earners reported under the Census classifications 'Clothing (except Work Clothing), Men's, Youths', and Boys' Not Elsewhere Classified' and 'Clothing, Work, Men's.' Approximately 65 per cent of the value of products under these Census Classifications were covered by the Men's Clothing Industry Code; the remaining products were covered for the most part by the Cotton

(Foot-note continued on the following page)

TABLE XXIII

RATIO OF LABOR COST, AND OF MATERIALS' COST TO TOTAL VALUE OF PRODUCT

Year	Total Value of Product (000's)	Labor Cost a/ Amount (000's)	Labor Cost a/ Per Cent of Total	Materials' Cost b/ Amount (000's)	Materials' Cost b/ Per Cent of Total
1929	$901,104	$179,769	19.9	$440,505	48.9 c/
1931	551,416	115,041	20.9	263,675	47.8 c/
1933 d/	445,220	92,265	20.7	214,639	48.2 c/
1934	450,000 e/	115,530 f/	25.7 f/	---	---

Source: Census of Manufacturers, "Men's Clothing"; 1934 figures from Code Authority for Men's Clothing Industry.

a/ Consists only of wages paid to wage earners.

b/ Cost of materials, fuel, and purchased electric energy.

c/ These figures cover all men's clothing (except work) as classified by the Census of Manufacturers.

d/ Because of changes in Census classifications, 1933 figures are not comparable with those for previous years.

e/ Code Authority estimate.

f/ Estimated on basis of Code Authority figure for value of products.

TABLE XXIV

MEN'S CLOTHING INDUSTRY

FACTORY EMPLOYMENT

A	Index of Employment (1923-25=100) a/									
	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935
Jan.	96.7	100.7	104.1	99.4	100.5	80.9	76.0	70.8	76.7	83.9
Feb.	99.7	104.4	106.7	102.8	101.9	86.1	81.8	77.7	85.5	91.8
Mar.	98.9	103.3	105.1	104.5	98.6	88.2	81.1	75.9	88.7	94.6
Apr.	93.7	97.8	97.8	99.5	93.0	86.6	74.7	75.2	88.0	94.7
May	92.0	97.1	95.7	98.6	89.4	82.9	68.2	73.7	81.5	87.6
June	97.1	102.2	101.3	105.1	92.8	83.4	63.8	79.6	81.6	86.6
July	95.3	102.9	99.5	105.1	90.6	86.8	64.3	86.9	81.4	88.9
Aug.	99.3	105.9	102.9	107.6	90.6	89.6	71.0	88.6	88.4	93.6
Sep.	99.0	105.5	102.7	107.3	92.4	90.8	77.8	89.8	89.5	95.4
Oct.	99.3	105.3	101.5	105.4	87.5	87.6	80.8	87.8	86.8	94.8
Nov.	97.1	101.8	98.7	102.1	80.6	79.4	79.5	81.2	80.3	
Dec.	101.1	102.5	99.3	100.9	78.3	76.2	74.1	76.6	79.1	
Average	97.4	102.5	101.3	103.2	91.4	84.9	74.4	80.3	84.0	

B	Index of Employment (1929=100) b/									
Jan.	93.7	97.6	100.9	96.3	97.4	78.4	73.6	68.6	74.3	81.3
Feb.	96.6	101.2	103.4	99.6	98.7	83.4	79.3	75.3	82.8	88.9
Mar.	95.8	100.1	101.8	101.3	95.5	85.5	78.6	73.5	85.9	91.7
Apr.	90.8	94.8	94.8	96.4	90.1	83.9	72.4	72.9	85.3	91.8
May	89.1	94.1	92.7	95.7	86.6	80.3	66.1	71.4	79.0	84.9
June	94.1	99.0	98.2	101.8	89.9	80.8	61.8	77.1	79.1	83.9
July	92.3	99.7	96.4	101.8	87.8	84.1	62.3	84.2	78.9	86.1
Aug.	96.2	102.6	99.7	104.3	87.8	86.8	68.8	85.8	85.7	90.7
Sep.	95.9	102.2	99.5	104.0	89.5	88.0	75.4	87.0	86.7	92.4
Oct.	96.2	102.0	98.4	102.1	84.8	84.9	78.3	85.1	84.1	91.9
Nov.	94.1	98.6	95.6	98.9	78.1	76.9	77.0	78.7	77.8	
Dec.	98.0	99.3	96.2	97.8	75.9	73.8	71.8	74.1	76.6	
Average	94.4	99.3	98.1	100.0	88.5	82.2	72.1	77.8	81.4	

C	Estimated Number Employed (Thousands) c/									
Jan.	140.4	146.3	151.2	144.3	146.0	117.5	110.3	102.8	111.4	121.8
Feb.	144.8	151.7	155.0	149.3	147.9	125.0	118.8	112.9	124.1	133.2
Mar.	143.6	150.0	152.6	151.8	143.1	128.1	117.8	110.2	128.7	137.4
Apr.	136.1	142.1	142.1	144.5	135.0	125.7	108.5	109.3	127.8	137.6
May	133.5	141.0	138.9	143.4	129.8	120.3	99.1	107.0	118.4	127.2
June	141.0	148.4	147.2	152.6	134.7	121.1	92.6	115.5	118.5	125.7
July	138.3	149.4	144.5	152.6	131.6	126.0	93.4	126.2	118.2	129.0
Aug.	144.2	153.8	149.4	156.3	131.6	130.1	103.1	128.6	128.4	135.9
Sep.	143.7	153.2	149.1	155.9	134.1	131.9	113.0	130.4	129.9	138.5
Oct.	144.2	152.9	147.5	153.0	127.1	127.2	117.3	127.5	126.0	137.7
Nov.	141.0	147.8	143.3	148.2	117.0	115.2	115.4	117.9	116.6	
Dec.	146.9	148.8	144.2	146.6	113.7	110.6	107.6	111.1	114.8	
Average	141.5	148.8	147.0	149.9	132.6	123.2	108.1	116.6	121.9	

a/ Bureau of Labor Statistics index for Clothing, Men's.
b/ Index of Employment (A) shifted to 1929 base.
c/ Index of Employment (B) times 1929 Census figure 149,868.

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period 1926-1935, the high point of employment came in August, 1929, as evidenced by the index 104.3. The low point of employment for this period is reflected in the index 61.8, representing a decline of over 40 per cent, and is found in the month of June, 1932. For recent years, it is notable that the average index of employment of 77.8 for 1933 climbed to an average of 81.4 for 1934 and continued this gain to an average of 88.4 for the first ten months of 1935. In terms of estimated employment the range for the period 1926-1935 is from a high of approximately 156,300 in August, 1929, to a low of approximately 107,000 in May, 1933. The gain following the improvement in employment in 1933 is shown by an average employment for 1933 of 116,600; for 1934, an average of 121,900; and for the first ten months of 1935, an average of 132,400.

(Foot-note Cont'd)
Garment Code. In December 1934, about 80 per cent of the employees included in the sample were covered by the Men's Clothing Code, the greater portion of the remainder being covered by the Cotton Garment Code." (Industry Statistics Unit, Division of Review.)

A. Stability of Employment.

The Men's Clothing Industry has two distinct seasons, the summer and the winter. In the winter, clothing is produced for summer wear, and in the summer, for winter wear. (*) The following table shows the seasonality of employment within the years 1933 and 1934 and shows the 1934 gain in employment over 1933.

TABLE XXV.

INDEX OF EMPLOYMENT a/
(1933 = 100)

Month	Index of Employment 1933	1934
January	90.9	101.7
February	103.2	112.3
March	101.6	112.8
April	94.8	107.8
May	87.8	94.6
June	93.7	97.8
July	104.9	104.6
August	108.0	114.5
September	110.4	115.4
October	108.2	111.7
November	99.9	102.1
December	96.4	102.5
Average	100.0	106.5

Source: Unpublished data secured by the Bureau of Labor Statistics in cooperation with the Division of Research and Planning, NRA.

a/ Reporting establishments almost completely identical with the Code definition of the Men's Clothing Industry. 1934 data came from a much larger proportion of the Industry than the 1933 data.

Attention is drawn to the fact, as shown by Table XXV that the high and low months of employment for 1933 and 1934 fall in the same respective months; namely, September and May. The range for 1933 was from 87.8 in May to 110.4 in September. For 1934, the range was from 94.6 in May to 115.4 in September. It is, of course, significant to note that employment for 1934 averaged 6.5 points ahead of 1933.

As further evidence of wide fluctuation in employment in this Industry, attention is directed to Table XXVI. It is seen that the range of employment between the high and low months of a year may fluctuate by 10 to 20 thousand employees. This table likewise pictures the sharp decline from the average employment of 158,173 during

(*) Evidence of the smoothing out of the extremes in production peaks in the industry was found by Mr. A.A.Fisher (see this Chapter - pages).

the year 1923 to 119,253 in 1933 and the subsequent increase in employment to an average of 132,100 for eleven months of 1935.

The Monthly Labor Review of January, 1929, published by the U. S. Department of Labor, presented the results of a study of Stability of Employment in the Men's Clothing Industry. This Study covered for the years 1923 to October, 1928, sixty-four men's clothing establishments in various lines of the Industry, disregarding occupational differences and leaving out special products such as caps and overalls. The standard of measure of stability used was that "If a particular shop had a monthly average of 90 employees and a maximum number in any one month of 100, then the stability of employment may be fairly said to be 90 per cent."

TABLE XXVI

MEN'S CLOTHING INDUSTRY

Number of Wage Earners, High and Low Months and Yearly Average, 1923-35

Year	High		Low		Average
	Month	Number	Month	Number	Number
1923	March	168,771	November	149,259	158,173
1925	February	147,596	May	131,181	141,511
1927	February	153,550	May	139,086	146,099
1929	September	155,845	December	144,496	149,868
1931	September	130,883	December	110,235	121,964
1933 a/	September	131,648 b/	December	112,345 b/	119,253
1934 c/	September	129,900	January	111,400	121,900
1935 c/	September	138,500	January	121,800	132,100 d/

Source: Census of Manufactures, 1929, Vol. II, p. 356; 1931, p. 312; 1933, Wearing Apparel, pp. 5 and 8, and unpublished Census data. Figures are for Census classification "Clothing (Except Work Clothing), Men's, Youths', and Boys', Not Elsewhere Classified." Data are for regular factories and contract shops. They do not include establishments with annual production valued at less than $5,000.

a/ Figures for 1933 are not strictly comparable with those for previous years because of changes in Census classifications.

b/ Quarterly figures are used, since monthly digures are not available.

c/ Estimates computed by multiplying Bureau of Labor Statistics Index of Employment shifted to 1929 base by 1929 Census figure (149,868).

d/ 11-months' Average. Figures for December, 1935, are not yet available.

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The results of the Department of Labor Study are summarized as follows:

"1. Judging by the averages, stability of employment in the Men's Clothing Industry is bad and conditions have shown no improvement in the six years covered by the Study. Thus, the average stability for the plants reporting was only 87.9 per cent in 1923 and in no subsequent year was the percentage over that high. Also,***this continuous low average over the six-year period was the resultant of an increasing number of plants with improving records and a corresponding increase in the number of plants with records which were growing worse. Thus, in 1923, the per cent of plants with employment stability rates of 95 per cent or over, was only 10.9 per cent, as against 28.1 and 15.6 per cent in 1927 and 1928, respectively. On the other hand, the number of plants with stability rates of less than 80 per cent also increased from 15.6 per cent in 1923 to 21.9 in 1927 and 33.4 in 1928.

"2. While the general conditions of employment stability in the Industry were bad and did not improve over the six-year period, a number of establishments nevertheless had excellent records. Thus, establishments 4 and 6 (Table attached to report) had an average of more than 96 per cent of full time employment for each of the six years, and several establishments show averages of more than 98 per cent in individual years." Note: Plants 4 and 6 above referred to were in New York and Boston, respectively.

V. WAGES AND HOURS

A. Average Wages per Hour.

Wages in the Men's Clothing Industry averaged 75.0 cents an hour during the year 1926, according to the Bureau of Labor Statistics index (see Table XXVII-A). This average declined precipitately to a low point of 50.6 cents an hour for 1933, but rallied considerably during the Code period to show an average of 57.7 cents for the year 1934. This improvement continued through the first ten months of 1935, as indicated by an average of 59.5 cents.

B. Average Weekly Wages.

Average weekly wages for the period 1926-1935 (see Table XXVII-B) followed a course comparable to that for average hourly wages. The reltively high average of $24.15 per week in 1927 declined steadily and sharply to a low weekly average of $13.70 for the year 1932. The 1932 average weekly wage was improved upon somewhat in 1933, as shown by the average of $14.14. The sharpest advance took place during the beginning of the Code period in the last quarter of 1933. The year 1934 displayed a still further average improvement to $16.26 per week and was bettered by an average weekly wage of $18.32 for the first ten months of 1935.

C. Payrolls.

Payrolls in the Men's Clothing Industry according to the Bureau

of Labor Statistics index (1929 base) declined in every year from 1929 until a low of 44.1 was reached in 1932.* Subsequent to 1932, the improvement was substantial and consistent, as evidenced by the index 49.3 and 60.4 for 1933 and 1934 respectively, and the average index of 74.8 for the first ten months of 1935. This represented an average monthly payroll of $3,457,000 for 1929, which declined to a monthly average of $1,525,000 in 1932 but subsequently improved to monthly averages of $1,705,000 and $2,087,000 respectively for 1933 and 1934 and a monthly average of $2,585,000 for the first ten months of 1935.

D. Distribution of Payrolls by States.

The distribution of payrolls and wage earners in the Men's Clothing Industry by principal States is shown in Table XXIX. It is readily seen that seven States account for practically the entire employment and payrolls in the Industry, New York State leads by accounting for around 30 per cent of total employees (and a slightly higher percentage of total payrolls), and is followed in order by Pennsylvania, Illinois, Ohio, Maryland, New Jersey and Massachusetts.

E. Distribution of Employment, Man Hours, and Earnings, by Market Areas.

A distribution of employment, man hours, and earnings is shown by market areas for the last six months of 1934 in Table XXX. The figures in this Table were obtained from the records of the Men's Clothing Code Authority in cooperation with the U. S. Bureau of Labor Statistics and doubtless are the most complete available for any full season of the Industry. This Table shows a concentration of 69 per cent of the Industry's employees in the ten important market areas. Of the ten most important market areas, New York leads with 22.4 per cent of the total of the Industry's employees. The remaining nine areas in order of number of employees are Chicago, Philadelphia, Rochester, Baltimore, Cincinnati, Cleveland, Boston, St. Louis, and Buffalo. Of the 31 per cent of the employees not found in the ten large market areas, it is interesting to note that around 18 per cent are found in cities below 50,000 in population.

Column three of Table XXX shows average hourly earnings by market areas. The Industry's average is 66.2 cents per hour. Of the large areas, Chicago leads with an average of 78 cents per hour, and the range downward is to 56.2 cents paid in Baltimore. The average for the ten large areas is 71.2 cents. The lowest average hourly earnings rate in the Industry, of 52.7 cents per hour, is found in the cities under 50,000 in population.

The market area of Cleveland leads the ten large areas in average weekly man hours for the last half of 1934, with an average of 30. This was approximately 5 hours better than the average for the ten large areas, which was 25.7. Rochester, with 22.3 hours, is lowest of the large areas. Cleveland, leading in weekly man hours, also leads

(*) See Table XXVIII-B

TABLE XXVII
MEN'S CLOTHING INDUSTRY
FACTORY WAGES

A	Average Hourly Wages (Cents) a/									
	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935
Jan.										60.1
Feb.									54.3	61.4
Mar.									52.7	62.1
Apr.									52.3	62.9
May									52.0	58.3
June	(		(						53.5	59.0
July	(75.0		(73.1						56.2	57.8
Aug.	(		(		(		(		68.6	58.1
Sep.					(70.1		(50.6		61.7	58.1
Oct.					(		(		60.7	57.4
Nov.									60.8	
Dec.									61.7	
Average									57.7*	

B	Average Weekly Wages (Dollars) b/									
Jan.	24.54	24.33	24.35	23.16	22.24	18.06	15.73	12.58	15.50	16.04
Feb.	24.94	24.97	24.53	24.38	22.31	20.05	16.32	13.96	17.01	18.53
Mar.	24.69	24.90	23.92	24.86	21.70	20.54	16.14	12.69	17.61	20.39
Apr.	22.73	22.38	21.13	21.42	19.19	18.50	13.23	11.71	16.38	20.45
May	22.19	23.66	21.89	22.41	18.45	16.69	12.16	11.65	15.51	16.83
June	24.05	24.82	23.86	23.57	20.39	18.34	11.42	12.72	15.73	17.06
July	24.12	25.40	23.97	23.12	21.02	19.55	11.27	14.57	15.76	17.00
Aug.	24.94	25.30	23.89	23.72	21.28	20.16	13.71	16.10	17.51	18.61
Sep.	23.66	25.01	23.50	22.84	20.36	17.89	15.07	17.11	16.51	19.71
Oct.	23.46	24.08	22.87	21.98	18.59	17.28	14.87	17.21	16.90	18.56
Nov.	22.41	22.14	21.78	20.78	16.97	14.98	13.04	15.39	15.19	
Dec.	23.93	23.78	23.61	21.83	17.49	15.53	11.41	13.96	15.46	
Average	23.81	24.15	23.27	22.84	20.00	18.13	13.70	14.14	16.26	

a/ Bureau of Labor Statistics series for "Clothing, Men's." Prior to 1934, Bureau of Labor Stations Bulletins 435, 503, 557 and 594.

b/ Bureau of Labor Statistics series for "Clothing, Men's."

(*) 11-month average.

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TABLE XXVIII
MEN'S CLOTHING INDUSTRY
FACTORY PAYROLLS

A	Index of Payrolls (1923-25=100) a/									
	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935
Jan.	96.8	99.9	101.7	94.0	90.4	59.9	49.1	35.4	48.8	57.0
Feb.	101.2	106.6	105.7	102.5	91.3	69.7	54.1	44.3	60.6	71.8
Mar.	99.6	103.9	101.2	105.8	86.6	73.5	53.6	40.4	65.9	82.0
Apr.	87.0	88.2	83.2	87.1	73.8	64.8	40.9	36.8	61.4	82.5
May	83.6	88.8	84.5	89.8	67.5	56.6	34.2	35.2	53.3	64.4
June	94.3	101.0	96.9	100.8	76.1	62.1	29.3	41.8	54.6	63.7
July	94.1	104.0	95.8	98.2	77.3	69.2	29.4	51.3	54.5	65.6
Aug.	101.1	106.6	99.5	103.4	79.2	72.4	40.4	58.7	65.5	74.3
Sep.	96.0	104.4	97.7	100.2	76.2	66.3	48.6	63.9	62.2	80.4
Oct.	95.8	101.2	95.5	93.0	66.3	61.4	49.6	62.6	62.6	74.8
Nov.	89.3	92.0	87.7	85.7	56.2	48.6	43.0	52.4	52.1	
Dec.	99.2	97.9	96.2	89.4	55.4	48.5	34.8	44.4	52.6	
Average	94.8	99.5	95.5	95.8	74.7	62.8	42.3	47.3	57.8	

B	Index of Payrolls (1929=100) b/									
Jan.	101.0	104.3	106.2	98.1	94.4	62.5	51.2	36.9	50.9	59.5
Feb.	105.6	111.3	110.3	107.0	95.3	72.7	56.5	46.2	63.2	74.9
Mar.	104.0	108.5	105.6	110.4	90.4	76.7	55.9	42.2	68.8	85.6
Apr.	90.8	92.1	86.8	90.9	77.0	67.6	42.7	38.4	64.1	86.1
May	87.3	92.7	88.2	93.7	70.5	59.1	35.7	36.7	55.6	67.2
June	98.4	105.4	101.1	105.2	79.4	64.8	30.6	43.6	57.0	66.5
July	98.2	108.6	100.0	102.5	80.7	72.2	30.7	53.5	56.9	68.5
Aug.	105.5	111.3	103.9	107.9	82.7	75.6	42.2	61.3	68.5	77.5
Sep.	100.2	109.0	102.0	104.6	79.5	69.2	50.7	66.7	64.9	83.9
Oct.	100.0	105.6	99.7	97.1	69.2	64.1	51.8	65.3	65.3	78.1
Nov.	93.2	96.0	91.5	89.5	58.7	50.7	44.9	54.7	54.4	
Dec.	103.5	102.2	100.4	93.3	57.8	50.6	36.3	46.3	54.9	
Average	99.0	103.9	99.6	100.0	78.0	65.5	44.1	49.3	60.4	

C	Estimated Total Payroll (Thousands of Dollars) c/									
Jan.	3492	3606	3671	3391	3262	2161	1770	1276	1760	2057
Feb.	3651	3848	3813	3699	3295	2513	1953	1597	2185	2589
Mar.	3595	3751	3651	3817	3125	2652	1933	1459	2378	2959
Apr.	3139	3184	3001	3142	2662	2337	1476	1328	2216	2977
May	3018	3205	3049	3239	2437	2043	1234	1269	1922	2323
June	3402	3644	3495	3637	2745	2240	1058	1507	1971	2299
July	3395	3754	3457	3544	2790	2496	1061	1850	1967	2368
Aug.	3647	3848	3592	3730	2859	2514	1459	2119	2368	2679
Sep.	3464	3768	3526	3616	2748	2392	1753	2306	2244	2901
Oct.	3457	3651	3447	3357	2392	2216	1791	2257	2257	2700
Nov.	3222	3319	3163	3094	2029	1753	1552	1891	1881	
Dec.	3578	3533	3471	3225	1998	1749	1255	1601	1898	
Average	3423	3592	3443	3457	2697	2264	1525	1705	2087	

a/ Bureau of Labor Statistics Index for "Clothing, Men's".
b/ Index of Payrolls (A) shifted to 1929 base.
c/ Index of Payrolls (B) times 1929 Census figure $3,457,092.

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TABLE XXIX

AVERAGE NUMBER OF WAGE EARNERS AND TOTAL ANNUAL WAGES BY PRINCIPAL STATES a/
(Total annual wages in thousands of dollars)

STATE	1929		1931		1933 b/		1934	
	Wage Earners	Annual Wages	Wage Earners	Annual Wages	Wage Earners	Annual Wages	Wage Earners	Annual Wages
U. S. Total	149,868	$179,769	121,964	$115,041	119,253	$98,266	130,317 c/	$115,531 c/
Illinois	20,304	28,678	15,203	16,282	13,448	10,376		
Maryland	10,007	9,016	9,642	7,145	9,432	6,188		
Massachusetts	5,551	6,446	5,345	5,235	5,143	4,078		
New Jersey	7,310	9,143	7,559	6,541	8,508	6,212		
New York	47,210	65,149	34,805	33,522	33,086	29,906		
Ohio	13,215	16,553	11,536	10,607	10,744	8,238		
Pennsylvania	18,473	20,817	16,274	14,745	17,116	13,561		
Other States	27,198	23,967	21,600	15,948	21,726	13,707		

Source: Census of Manufactures, "Men's Clothing"; 1934 figures from the Code Authority for the Men's Clothing Industry.

a/ Employees included: skilled and unskilled wage earners of all classes.
Wages included: average annual payroll for wage earners of all classes.
Regular factories and contract shops combined.

b/ 1933 figures are not comparable with those for previous years because of changes in the Census classification.

c/ Code Authority figure representing average of six months, July-December, 1934.

TABLE XXX
EMPLOYMENT, MAN-HOURS AND EARNINGS, BY MARKET AREAS
LAST SIX MONTHS, 1934

	Number Employed		Average Hourly Earnings	Average Weekly Man-Hours	Average Weekly Earnings	Average Weekly Payroll a/
	Average Number	Per cent				
Ten Important Cities						
Baltimore	7,428	5.7	56.2¢	26.2	$14.72	$ 109,340
Boston	2,476	1.9	71.3	26.2	18.68	46,252
Buffalo	1,433	1.1	62.8	26.9	16,89	24,203
Chicago	14,290	12.5	78.0	24.2	18.88	307,555
Cincinnati	6,255	4.8	65.3	27.0	17.63	110,276
Cleveland	5,082	3.9	70.5	30.0	21.15	107,484
New York	29,192	22.4	75.2	26.3	19.78	577,418
Philadelphia	10,816	8.3	70.6	25.6	18.07	195,445
Rochester	9,253	7.1	67.0	22.3	14.94	138,240
St. Louis	1,694	1.3	62.1	27.9	17.33	29,357
Total Cities	89,919	69.0	71.2	25.7	18.30	1,645,518
Balance of Cities over 100,000						
Los Angeles	782	0.6	72.6	28.2	20.47	16,008
Milwaukee	782	0.6	56.4	30.3	20.12	15,734
Minneapolis	261	0.2	63.2	32.1	20.29	5,296
Newark, N. J.	1,693	1.3	70.8	27.1	19.19	32,489
Portland, Oregon	261	0.2	53.5	24.9	13.32	3,477
St. Paul	261	0.2	64.4	29.4	18.93	4,941
San Francisco	261	0.2	65.1	30.6	19.92	5,199
All Other Cities b/	8,991	6.9	53.3	26.8	14.28	128,391
Total Cities	13,292	10.2	58.1	27.3	15.86	210,811
Total 10 important cities	89,919	69.0	71.2	25.7	18.30	1,645,518
Total other cities over 100,000	13,292	10.2	58.1	27.3	15.86	210,811
Total cities from 50,000 - 100,000	3,388	2.6	59.4	24.2	14.37	48,686
Total cities below 50,000	23,718	18.2	52.7	25.2	13.28	314,975
Grand Total U. S.	130,317	100.0	66.2	25.7	17.01	2,216,692

SOURCE: Code Authority for Men's Clothing Industry

a/ Average weekly payrolls were obtained by multiplying total employees by average weekly earnings

b/ Includes such cities as Knoxville, Fort Wayne, Indianapolis, Louisville, Syracuse, Utica, etc.

with the highest average weekly earnings, which were $21.15. The low in average weekly earnings was shown by Baltimore, with $14.72, against and Industry average of $17.01 and an average for the large market areas of $18.30.

Table XXII, based on Bureau of Labor Statistics data, summarizes for the entire Industry for the period 1926-1935 average hours worked per week and estimated total man hours per week. Average hours worked per week declined steadily from a high of 41.0 in 1926 to a low of 28.2 in 1934. The average of 30.4 for the first ten months of 1935 reflects a gain of 2.2 hours per week over the low point of 1934. Except for an increase in number of man hours worked in 1928 over 1926, the decline in man hours from 1926 to 1934 closely parallels the trend evidenced by average hours worked per week. The very substantial increase to the average of 4,324,000 man hours worked for the first ten months of 1935 over the 3,464,000 man hour average for eleven months of 1934 is notable.

F. Wage Earners Classified According to Average Hourly Wage Paid to All Employees in Establishments, for the Industry, and for Market Areas.

The Men's Clothing Code Authority made a wage analysis of some 1,471 establishments in the Industry, employing 99,107 workers. (*) The establishments included (a) all of the larger units; (b) over 650 smaller manufacturers, ranging from the smallest establishments, employing some 300 workers, and averaging less than 40 workers per establishment; (c) over 700 contractors employing about one-third of the total. This analysis is presented in Table XXXII, entitled "Frequency Table Showing Distribution of 1,471 Establishments Classified According to Average Hourly Wage Paid to All Employees in Establishments."

It was found in this analysis of 1,471 establishments that more than one-half of the workers were employed in establishments where the average wage was 65 cents or more per hour, and over 60 per cent of the workers were employed in establishments where the average was over 60 cents per hour. On the other hand, 6.5 per cent of the workers were employed in establishments where the average was between 40 cents and 45 cents per hour; and 7.8 per cent of the workers were employed in establishments where the average was between 45 cents and 50 cents per hour.

The averages for these establishments included wages paid to cutters, who had a minimum provided for in the Code of $1.00 per hour, and wages paid to off-pressers, whose minimum was fixed at 75 cents per hour, so that it appears the average for other manufacturing employees in the low-wage establishments was close to the Code minimum of 40 cents per hour.

In Table XXXIII, is presented data similar to that in Table XXXII, classified for the ten principal clothing markets. Here again, in

(*) Statement Submitted in Support of the Amendments to the Men's Clothing Code Proposed by the Management Members of the Code Authority. (Men's Clothing Code Files.)

TABLE XXXI
MEN'S CLOTHING INDUSTRY
FACTORY HOURS

A	Average Hours Worked Per Week a/									
	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935
Jan.										26.5
Feb.									30.4	30.2
Mar.									32.2	32.9
Apr.									30.5	32.7
May									29.2	28.3
June	(		(						29.3	28.6
July	(41.0		(40.6						28.3	29.1
Aug.	(		(		(		(		25.9	31.5
Sep.					(37.8		(37.3		26.7	33.2
Oct.					(		(		27.4	31.4
Nov.									24.8	
Dec.									25.1	
Average									28.2*	30.4**

B	Estimated Total Man Hours Per Week b/ (Thousands)									
	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935
Jan.										3228
Feb.									3773	4023
Mar.									4144	4520
Apr.									3898	4500
May									3457	3600
June	(		(						3472	3595
July	(5802		(5968						3345	3754
Aug.	(		(		(		(		3326	4281
Sep.					(5012		(4032		3468	4598
Oct.					(		(		3452	4324
Nov.									2892	
Dec.									2881	
Average									3464*	4042

a/ Bureau of Labor Statistics series for "Clothing, Men's." Prior to 1934, Bureau of Labor Statistics Bulletins 435, 503, 557, and 594.

b/ Estimated Number Employed (Table XLIV - C) times Average Hours Worked per week, (Table XXXI - A).

* 11-month average.

** 10-month average.

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TABLE XXXII

FREQUENCY TABLE SHOWING DISTRIBUTION OF 1,471 ESTABLISHMENTS (employing 99,107 workers)

Classified according to the average hourly wage paid to all employees in establishments*

		AVERAGE HOURLY WAGE PAID																	
		.40 - .449		.45 - 499		.50 - .549		.55 - .599		.60 - .649		.65 - .699		.70 - .749		.75 and over		Total	
		Firms	Workers	Firms	Workers	Firms	Workers	Firms	Workers	Firms	Workers	Firms	Workers	Firms	Workers	Firms	Workers	Firms	Workers
CONTRACTORS	No.	80	2651	82	2876	106	3729	110	4588	88	3476	73	4459	62	3386	168	7033	769	32198
	%		8.2		8.9		11.6		14.3		10.8		13.8		10.5		21.9		100.0
MANUFACTURERS	No.	21	3799	28	4859	41	5992	49	8951	57	7161	41	6726	55	5593	410	23828	702	66909
	%		5.7		7.3		9.0		13.4		10.7		10.1		8.4		35.4		100.0
TOTAL	No.	101	6450	110	7735	147	9721	159	13539	145	10637	114	11185	117	8979	578	30861	1471	99107
	%		6.5		7.8		9.8		13.7		10.7		11.3		9.1		31.1		100.0

Source: Payrolls Reports of the Men's Clothing Code Authority. Data prepared under the supervision of the Division of Research and Planning of the National Recovery Administration.

* 13 establishments employing 1393 workers in Southern Territory are excluded.

TABLE XXXIII

FREQUENCY TABLE SHOWING DISTRIBUTION BY MARKET AREAS ACCORDING TO AVERAGE HOURLY WAGE PAID TO ALL EMPLOYEES (Excluding Office)

CITY or MARKET		.40 - .449		.45 - .499		.50 - .549		.55 - .599		.60 - .649		.65 - .699		.70 - .749		.75 and up		Total	
		Firms	Workers	Firms	Workers	Firms	Workers	Firms	Workers	Firms	Workers	Firms	Workers	Firms	Workers	Firms	Workers	Firms	Workers
BALTIMORE	No.	8	87	17	642	22	699	14	1469	12	362	9	113	7	251	35	317	124	3940
	%		2.2		16.3		17.7		37.2		9.2		2.9		6.4		8.1		100.0
BOSTON	No.	3	163	2	691	2	409	6	77	2	74	4	621	6	76	21	347	46	2458
	%		6.6		28.1		16.6		3.1		3.1		25.3		3.1		14.1		100.0
BUFFALO	No.	1	2	2	18	2	21	3	89	2	77	1	686			2	3	13	896
	%		0.2		2.0		2.3		9.9		8.6		76.7				0.3		100.0
CHICAGO	No.	7	61	13	121	25	1051	13	445	17	262	9	610	5	283	34	8959	123	11792
	%		0.5		1.0		8.9		3.8		2.2		5.2		2.4		76.0		100.0
CINCINNATI	No.	2	1527	8	86	7	1901	3	53	7	1003	4	1672	2	20	10	989	43	7251
	%		21.1		1.2		26.2		0.7		13.8		23.1		0.3		13.6		100.0
CLEVELAND	No.	1	449			1	12	2	2591	4	135	1	100			3	1773	12	5060
	%		8.9				0.2		51.2		2.7		2.0				35.0		100.0
PHILADELPHIA	No.	10	386	7	415	5	180	10	259	12	1557	10	451	22	3370	45	3735	121	10353
	%		3.7		4.0		1.7		2.5		15.0		4.4		32.5		36.2		100.0
ROCHESTER	No.	2	33	2	17	2	135	4	571	2	1344	2	1718			5	840	19	4658
	%		0.7		0.4		2.9		12.3		28.9		36.8				18.0		100.0
ST. LOUIS	No.			2	81	3	120	1	113	2	496	2	981			1	10	11	1801
	%				4.5		6.7		6.3		27.5		54.5				0.5		100.0
NEW YORK	No.	27	598	24	343	32	874	49	1412	46	2097	46	2331	62	3466	370	10484	656	21605
	%		2.8		1.6		4.0		6.5		9.7		10.8		16.0		48.6		100.0
TOTAL-- 10 MARKETS	No.	61	3306	77	2414	101	5402	105	7079	104	7407	88	9283	104	7466	526	27457	1168	69814
	%		4.7		3.5		7.7		10.1		10.6		13.3		10.7		39.4		100.0

Source: Payroll Reports of the Men's Clothing Code Authority. Data prepared under the supervision of the Division of Research and Planning of the National Recovery Administration.

TABLE XXXIV

MEN'S CLOTHING INDUSTRY

Average Annual Wage in the Men's Clothing Industry Compared with that in All Other Manufacturing Industries, 1923 - 1933

Year	Men's Clothing Industry a/			All Manufacturing Industries Less Men's Clothing			Percentage Average Annual Wage in Men's Clothing is of that in All Other Manufacturing Industries
	Wages (Millions of dollars)	Wage Earners (Thousands)	Average Annual Wage (Dollars)	Wages (Millions of dollars)	Wage Earners (Thousands)	Average Annual Wage (Dollars)	
1923	207	158	1,310	10,802	8,620	1,253	104.5
1925	179	142	1,261	10,550	8,242	1,280	98.5
1927	185	146	1,267	10,664	8,204	1,300	97.5
1929	180	150	1,200	11,441	8,689	1,317	91.1
1931	115	122	943	7,071	6,401	1,105	85.3
1933 b/	92	119	773	5,169	5,936	871	88.7

SOURCE: Census of Manufactures, 1929, Vol. II, pp. 15 and 356; 1933, Wearing Apparel, p. 5; mimeographed release, January 23, 1935, p. 1.

a/ Data are for Census classification "Clothing (Except Work Clothing), Men's, Youth's, and Boys', Not Elsewhere Classified." They do not include establishments with annual production valued at less than $5,000.

b/ Figures for 1933 are not strictly comparable with those for previous years because of changes in Census classifications.

Prepared by Industry Statistics Unit, Statistics Section, Division of Review, NRA.

greater or lesser degree, the same disparity in wage conditions is shown.

G. Average Annual Wages in Men's Clothing Compared with All Other Manufacturing Industries.

An analysis of Table XXXIV, reveals that the average annual wage in the Men's Clothing Industry has shown a greater decline since 1923 than has the average annual wage in all other manufacturing industries. In 1923 the average annual wage of $1,310 in the Men's Clothing Industry was 4.5 per cent higher than that for all other manufacturing industries; namely, $1,253. This supremacy was lost by 1925 and by 1933 it is found that the average annual wage in Men's Clothing was only 88.7 per cent of that in all other manufacturing industries.

H. Comparison of Changes in Average Weekly Wages and in Cost of Living.

A comparison of changes in average weekly wages in the Men's Clothing Industry with changes in the cost of living (see Table XXXV, reveals that real wages in the Industry suffered materially in the change from 1923 to 1924 and continued to lose ground slowly until a considerable disparity is witnessed during the year 1932, when dollar wages declined from 100 in 1929 to 60 in 1932, while at the same time the cost of living declined from 100 only to 74.9. The year 1934, however, shows a much improved situation for the Men's Clothing wage earners, as at this time there existed a difference of only around 6 points between the average weekly wage index and the index of the cost of living as against a difference of 14.9 points in 1932.

VI. PRICES: RAW MATERIALS AND FINISHED PRODUCTS

It is not possible, from records available, to make an accurate survey of the changes and interrelationships in prices (raw materials and finished products) at wholesale and retail in the Men's Clothing Industry. Nevertheless, some realization of the price trends in the Industry during recent years may be obtained from a survey of certain Bureau of Labor Statistics indexes and records of actual prices.

The movement in the price of raw materials is pictured in Table XXXVI, using as an index the wholesale price per yard of 16 ounce serge quoted at a single plant or factory considered by B.L.S. to be representative of the whole country. It is observed that the price of this 16 ounce serge in the 1926-1935 period declined steadily from the 1926 yearly average of $3.76 per yard to a low average of $2.27 for the year 1932. This represents a fall in price of approximately 40 per cent. The averages for the years 1933 and 1934 show an improvement over the 1932 low as evidenced by the prices per yard of $2.59 and $2.89, respectively.

The increase from 1932 to 1934 amounted to about 27 per cent. The first six months of 1935 show an average of $2.72 per yard, which represents a slight decline from the $2.89 average of 1934. The advance in price from the low point average for 1932 to the 1935 six months' average approximated 20 per cent.

TABLE XXXV

MEN'S CLOTHING INDUSTRY

Comparison of Changes in Average Weekly Wages in the Men's Clothing Industry and in the Cost of Living, 1923-1934

	Average Weekly Wages (Dollars)	Index of Weekly Wages (1929 = 100)	Index of Cost of Living b/ (1929 = 100)
1923	24.97a/	109.3	99.4
1924	24.15a/	105.7	100.9
1925	24.17a/	105.8	103.7
1926	23.81	104.2	103.9
1927	24.15	105.7	101.5
1928	23.27	101.9	100.3
1929	22.84	100.0	100.0
1930	20.00	87.6	95.6
1931	18.13	79.4	84.9
1932	13.70	60.0	74.9
1933	14.14	61.9	72.1
1934	16.26	71.2	77.3

SOURCE: Bureau of Labor Statistics, National Industrial Conference Board, National Recovery Administration.

a/ Derived from B.L.S. employment and payroll indexes and adjusted to B.L.S. current published weekly wages.

b/ National Industrial Conference Board index of cost of living as weighted and shifted to a 1929 base by the Division of Research and Planning, N.R.A.

Prepared by
Industry Statistics Unit
Statistics Section
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TABLE XXXVI

MEN'S CLOTHING INDUSTRY

Wholesale Prices - Raw Materials a/

	Serge, 16 ounce - Per Yard, Mill (Dollars)									
	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935
Jan.	4.03	3.63	3.69	3.61	3.45	2.96	2.66	2.10	3.10	2.67
Feb.	3.87	3.65	3.71	3.61	3.35	2.96	2.66	2.10	3.10	2.67
Mar.	3.87	3.65	3.71	3.61	3.35	2.92	2.66	2.10	3.06	2.71
Apr.	3.87	3.65	3.71	3.61	3.35	2.78	2.33	2.11	2.93	2.72
May	3.87	3.65	3.71	3.61	3.35	2.78	2.33	2.45	2.90	2.74
June	3.87	3.65	3.71	3.61	3.35	2.78	2.05	2.55	2.90	2.82
July	3.66	3.65	3.67	3.60	3.20	2.78	2.05	2.59	2.90	
Aug.	3.62	3.65	3.61	3.49	2.96	2.69	2.06	2.86	2.90	
Sept.	3.62	3.65	3.61	3.49	2.96	2.66	2.10	2.97	2.90	
Oct.	3.62	3.65	3.61	3.49	2.96	2.66	2.10	3.10	2.62	
Nov.	3.62	3.65	3.61	3.49	2.96	2.66	2.10	3.10	2.65	
Dec.	3.62	3.68	3.61	3.49	2.96	2.66	2.10	3.10	2.67	
Average	3.76	3.65	3.66	3.56	3.18	2.77	2.27	2.59	2.89	

a/ Bureau of Labor Statistics. Series represents prices quoted at a single factory or plant considered by B.L.S. to be representative of the whole country.

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The fluctuations in the index of composite wholesale prices of finished goods in the Men's Clothing Industry (see Table XXXVII, follow a course closely approximating the changes in the wholesale price of raw material above outlined. The decline in the wholesale price of finished products from the high point of 1926 to the low point of 1932 approximated 36 per cent as against the decline in raw materials of about 40 per cent. The increase in the wholesale price of finished products from 1932 through 1934 (yearly averages) amounted to around 32 per cent as against the increase in raw materials of arount 27 per cent. The advance in the wholesale price of finished goods from the low yearly average of 1932 to the ten months' average for 1935 amounted to 25 per cent as against an advance in raw materials for the same period approximating 20 per cent.

The Fairchild index of retail prices for "Men's Apparel," found in Table XXXVIII, is based upon the prices for a great variety of garments, including hosiery, underwear, shirts, hats, caps, and overalls, and hence is not directly comparable with the index of wholesale prices for finished products in the Men's Clothing Industry above discussed. It may be worth noting, however, and it is not unexpected, to find as revealed by the Fairchild index that retail prices in men's clothing are at their low point in 1933 as against the low point for wholesale prices found in the preceding year. It is likewise of interest that the fluctuation in retail prices were not as extreme, neither falling nor advancing to the degree and as rapidly as did wholesale prices of raw materials and finished products.

VII. EXPORTS AND IMPORTS

In terms of Industry totals, the quantity of men's clothing exported and imported is of little consequence. Table XXXIX, shows that the average number of men's and boys' overcoats, suits, and pants exported per year for the years 1926-1930 is 148,000. While direct comparisons are not possible, this amount would appear to represent from 1 to 2 per cent of the Industry's total production. During the year 1931, garments in the amount of 54,000 pieces were exported, representing less than 1 per cent of the Industry total for that year. No subsequent year through 1934 had equaled the 1931 year in export volume. The export volume has declined steadily from 88,000 pieces in 1930, with the exception of 1933, to a volume of only 18,000 pieces in 1934. Value of exports declined comparably from $440,000 in 1930 to $85,000 in 1934. The 1934 value of exports represented less than 1 per cent of the total value of the Industry's products.

Import figures for men's clothing are available only in combination with "Clothing and Articles of Wearing Apparel, of Wool, (Except Wool-Felt Hats and Hat Bodies), Not Knit or Crocheted," (See Table XL, and hence are not directly comparable with exports or Industry totals. With respect to the category above mentioned, for the years 1929 through nine months of 1935, it is observed that 1929 is the peak year for imports, with 574,948 lbs. and that 1932 shows the lowest importation, with 172,134 lbs. Imports in pounds increased considerably from the low point of 1932 to a total of 279,937 lbs. for the first nine months of 1935. The 1929 importations were valued at $2,548,204 and declined to $462,883 in 1932, but increased from this level by approximately 100 per cent to imports for the first nine months of 1935, valued at $875,071.

TABLE XXXVII

MEN'S CLOTHING INDUSTRY

WHOLESALE PRICES

A — Index of Composite Wholesale Prices (1929=100) a/

	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935
Jan.	113.7	112.2	108.6	101.9	98.5	87.1	76.3	69.8	104.7	87.6
Feb.	113.7	112.2	108.6	101.9	98.5	87.1	76.1	69.8	104.0	87.8
Mar.	113.7	111.7	104.7	101.9	98.5	86.1	74.2	69.8	104.0	87.8
Apr.	113.7	111.7	104.7	99.5	97.9	86.1	73.4	71.2	100.9	87.8
May	113.7	111.7	104.7	99.5	97.9	86.1	71.6	72.9	95.3	87.8
June	113.7	111.7	104.7	99.5	97.4	85.3	70.4	75.9	95.2	92.5
July	113.7	111.7	104.7	99.5	97.4	85.3	69.3	78.8	93.8	92.5
Aug.	113.7	111.7	104.7	99.5	97.4	85.3	69.3	84.7	88.4	92.5
Sep.	112.9	111.1	103.4	99.5	94.8	85.3	70.1	93.7	88.4	92.5
Oct.	112.9	109.3	102.2	99.2	93.6	82.2	71.0	101.7	87.7	92.8
Nov.	112.9	109.3	102.2	99.2	93.2	81.8	71.0	105.2	86.9	
Dec.	112.2	108.6	101.9	98.8	93.2	78.8	70.8	105.2	86.9	
Average	113.3	111.1	104.6	100.0	96.5	84.7	72.0	83.2	94.7	

B — Items and Weights for Index of Men's Clothing Prices b/

Item	Weight
Overcoats, Men's and Youths'	.09
Suits, Boys', 4-piece	.05
Suits, Men's, 3-piece	.19
Suits, Men's, 4-piece	.19
Suits, Youths', 4-piece	.25
Topcoats	.09
Trousers, Boys' knee	.04
Trousers, Men's dress	.10
	1.00

Note: The composite index of wholesale prices was computed by NRA from Bureau of Labor Statistics price quotations for eight Men's Clothing items. In combining these price quotations weights based upon the quantity produced as shown in the 1931 Census of Manufactures were used. Quotations on overcoats are factory prices. All other quotations are New York prices except men's three-piece suits and topcoats which are Chicago prices. The B.L.S. price series and their respective weights are shown in Table B.

a/ Composite of eight Bureau of Labor Statistics indexes on 1929 base weighted as shown in Table B.

b/ Weights are based upon quantities produced as shown in 1931 Census of Manufactures.

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TABLE XXXVIII

MEN'S CLOTHING INDUSTRY
RETAIL PRICES

A	Index of Retail Prices (Dec. 1930=100) a/									
	1926	1927	1928	1928	1930	1931	1932	1933	1934	1935
Jan.						98.4	83.3	72.4	86.5	87.4
Feb.						97.5	81.7	71.6	88.4	87.4
Mar.						97.6	80.9	71.2	88.9	87.3
Apr.						97.0	80.2	70.7	87.9	87.4
May						95.5	79.4	71.0	88.1	87.3
June						94.4	77.2	71.8	87.7	87.2
July						93.2	75.8	75.1	88.3	87.1
Aug.						92.0	74.7	80.4	87.7	87.1
Sep.						90.6	74.6	82.9	87.7	87.2
Oct.						88.8	74.5	85.6	87.7	
Nov.						87.6	73.9	86.2	87.3	
Dec.					100.0	86.1	73.0	86.2	87.4	
Average						93.2	77.4	77.1	87.8	

a/ Fairchild's Index for "Men's Apparel," taken from Survey of Current Business. Prices are as of the 1st of the following month.

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TABLE XXXIX
WEARING APPAREL - EXPORTS
QUANTITIES

	Average 1926 - 1930	1930	1931	1932	1933	1934	Seven Months 1933	Seven Months 1934	Seven Months 1935
Wool									
Men's and boys' overcoats, suits, pants - 1,000 pieces	148	88	54	20	47	18	37	10	30
Women's and childrsn's wool-clothing - 1,000 pieces	50	47	43	40	49	34	28	16	11
Miscellaneous Textile Products									
Waterproofed outer garments - in thousands	371	377	320	65	49	134	30	88	117

WEARING APPAREL - EXPORTS
VALUES IN THOUSANDS OF DOLLARS

Wool									
Men's and boy's overcoats, suits, pants	601	440	282	94	141	85	92	34	87
Women's and children's wool clothing	414	393	285	167	213	205	104	110	79
Miscellaneous Textile Products									
Waterproofed outer garments	768	759	594	123	94	211	52	143	162

WEARING APPAREL - EXPORTS
INDEX OF QUANTITIES
(1926 - 1930 Average = 100)

							Seven Months*		
Wool									
Men's and boys' overcoats, suits, pants	100	59.5	36.5	13.5	31.8	12.2	43.0	11.6	34.9
Women's and children's wool clothing	100	94.0	86.0	80.0	90.0	65.0	96.6	55.2	37.9
Miscellaneous Textile Products									
Waterproofed outer garments - thousands	100	101.6	86.2	17.5	13.2	36.1	13.9	40.7	54.2

* 7/12 of 1926 - 1930 average = 100

Source: Statistical Abstract, Monthly Summary of Foreign Trade of the United States.

Of the countries selling clothing and articles of wearing apparel to the United States, the United Kingdom accounts for the greater portion in terms of both quantity and value, ranging from 63 per cent to 86 per cent of the total imports.

VIII. MIGRATION IN THE MEN'S CLOTHING INDUSTRY

One of the most striking phases of the economic development of the Men's Clothing Industry during the period 1923-1929 was the movement of the Industry out of the major manufacturing centers, into smaller cities and country districts. In support of this observation attention is directed to the following statistics which are based on United States Census of Manufactures data. (See Tables XLI, XLII, XLIII, XLIV, and XLV.

Establishments in the five major manufacturing cities declined from 3,047 in 1923 to 2,542 in 1929, or about 16 per cent; while the establishments outside these centers increased by 100 from 1,560 in 1923, or about 6 per cent.

The wage earners in the five major manufacturing centers between 1923 and 1929 declined from 97,086 to 77,841, or about 20 per cent; whereas the wage earners outside the five manufacturing centers increased from 97,754 to 110,228, or about 13 per cent.

Wages paid in the five major manufacturing centers declined from $145,356,000 in 1923 to $108,450,000 in 1929, or about 25 per cent; whereas the wages paid in the areas outside the five major manufacturing cities increased from $90,131,000 to $97,966,000, or about 9 per cent.

Value of product for the five major manufacturing cities declined from $774,195,000 in 1923 to $608,298,000 in 1929, or about 21 per cent; whereas the value of product of the areas outside the five major manufacturing cities increased from $404,520,000 to $431,256,000, or about 7 per cent.

A similar situation prevailed with respect to cost of materials. The five major manufacturing cities declined in cost of materials from $345,124,000 in 1925 to $293,454,000 in 1929 or about 15 per cent; whereas the areas outside the five major manufacturing cities advanced from $212,347,000 in 1925 to $230,693,000 in 1929, or about 9 per cent.

IX. RATIO OF LABOR COST TO VALUE OF PRODUCT

Table XXIII, indicates for the years 1929, 1931, 1933, and 1934, the ratio of labor cost to the total value of the Industry's product. It is observed that the ratio of labor cost to total value of product increased consistently from 1929 through 1934 and that a sharp increase is registered between the years 1933 and 1934. The ratio increased from 19.9 for 1929 to 21.4 for 1933 and then moved sharply to 25.7 for the year 1934.

TABLE XL

Clothing and Articles of Wearing Apparel, of Wool, (Except Wool-Felt Hats and Hat Bodies), Not Knit or Crocheted: Imports for Consumption into the United States from Principal Sources*

	1929	1931	1932	1933	1934	1935 (Jan.-Sept.)
Quantity (pounds)						
United Kingdom	574,948	197,838	172,134	248,192	246,899	279,937
Czechoslovakia	27,116	29,238	22,406	14,493	23,506	20,085
Japan	161,072	25,736	12,556	31,780	28,489	16,717
Germany	23,420	24,683	21,666	14,378	4,886	3,550
France	64,136	24,555	15,073	10,580	5,659	3,023
All Other Countries	43,063	8,153	6,252	7,404	11,992	20,815
Total	893,755	310,203	250,087	326,827	321,431	344,127
Value						
United Kingdom	$2,548,204	$742,930	$462,883	$772,506	$863,803	$875,071
Czechoslovakia	66,255	58,309	51,560	34,344	54,545	44,689
Japan	418,987	47,600	12,874	33,050	36,863	19,906
Germany	85,324	48,597	36,429	32,182	11,210	7,978
France	686,157	243,403	123,727	76,517	60,221	33,600
All Other Countries	169,237	33,926	20,541	16,526	28,601	36,082
Total	3,974,164	1,174,765	708,014	965,125	1,055,243	1,017,326
Value per pound						
United Kingdom	$4.432	$3.755	$2.689	$3.113	$3.499	$3.126
Czechoslovakia	2.443	1.994	2.301	2.370	2.320	2.225
Japan	2.601	1.850	1.025	1.040	1.294	1.191
Germany	3.643	1.969	1.681	2.238	2.294	2.247
France	10.698	9.913	8.209	7.232	10.642	11.115
All Other Countries	3.930	4.161	3.286	2.232	2.385	1.733
Average	4.447	3.787	2.831	2.953	3.283	2.956
Per Cent of Total Quantity						
United Kingdom	64.3	63.8	68.8	75.9	76.8	81.3
Czechoslovakia	3.0	9.4	9.0	4.4	7.3	5.8
Japan	18.0	8.3	5.0	9.7	8.9	4.9
Germany	2.6	8.0	8.7	4.4	1.5	1.0
France	7.2	7.9	6.0	3.2	1.8	.9
All Other Countries	4.9	2.6	2.5	2.4	3.7	6.1
Total	100.0	100.0	100.0	100.0	100.0	100.0
Per Cent of Total Value						
United Kingdom	64.1	63.2	65.4	80.0	81.9	86.0
Czechoslovakia	1.7	5.0	7.3	3.6	5.2	4.4
Japan	10.5	4.1	1.8	3.4	3.5	2.0
Germany	2.1	4.1	5.1	3.3	1.1	.8
France	17.3	20.7	17.5	7.9	5.7	3.3
All Other Countries	4.3	2.9	2.9	1.8	2.6	3.5
	100.0	100.0	100.0	100.0	100.0	100.0

* Table prepared by Textile Division of the U. S. Tariff Commission.

TABLE XLI

MEN'S CLOTHING INDUSTRY
Establishments for the United States, the Five Major Cities, and Outside the Five Major Cities, by Census Years, 1923 - 1929

	United States	Five Major Cities a/		Outside Five Major Cities	
	Number of Establishments	Number of Establishments	Per Cent of United States Total	Number of Establishments	Per Cent of United States Total
1923	4,607	3,047	66.1	1,560	33.9
1925	4,000	2,459	61.5	1,541	38.5
1927	4,118	2,623	63.7	1,495	36.3
1929	4,202	2,542	60.5	1,660	39.5

SOURCE: Census of Manufactures, 1929, Vol. II, pp. 356 and 368; Vol. III, pp. 158, 225, 378, 380, 466. Data are a combination of Census classifications (1) "Clothing (Except Work Clothing), Men's, Youths' and Boys' Not Elsewhere Classified" and (2) "Clothing, Work (Including Sheep-lined and Blanket-lined Work Coats but Not Including Shirts), Men's." They do not include establishments with annual production valued at less than $5,000.

a/ Data are for establishments located within the city limits rather than within the respective industrial areas of New York City, Rochester, Chicago, Baltimore and Philadelphia.

Prepared by
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Statistics Section,
Division of Review, NRA
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TABLE XLII

MEN'S CLOTHING INDUSTRY
Wage Earners for the United States, the Five Major Cities and Outside the Five Major Cities, by Census Years 1923 - 1929

	United States	Five Major Cities a/		Outside Five Major Cities	
	Number	Number	Per Cent of United States Total	Number	Per Cent of United States Total
1923	194,820	97,066	49.8	97,754	50.2
1925	174,332	80,588	46.2	93,744	53.8
1927	186,711	82,541	44.2	104,170	55.8
1929	188,069	77,841	41.4	110,228	58.6

SOURCE: Census of Manufactures, 1929, Vol. II, pp. 356 and 368; Vol. III, pp. 158, 225, 378, 380, 466. Data are a combination of Census classifications (1) "Clothing (Except Work Clothing), Men's, Youths' and Boys' Not Elsewhere Classified" and (2) "Clothing, Work (Including Sheep-lined and Blanket-lined Work Coats but Not Including Shirts), Men's." They do not include establishments with annual production valued at less than $5,000.

a/ Data are for establishments located within the city limits rather than within the respective industrial areas of New York City, Rochester, Chicago, Baltimore and Philadelphia.

Prepared by
Industry Statistics Unit,
Statistics Section,
Division of Review, NRA
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TABLE XLIII

MEN'S CLOTHING INDUSTRY
Wages for the United States, the Five Major Cities, and Outside the Five Major Cities, by Census Years, 1923 - 1929

	United States	Five Major Cities a/		Outside Five Major Cities	
	Wages ($1,000)	Wages ($1,000)	Per Cent of United States Total	Wages ($1,000)	Per Cent of United States Total
1923	235,487	145,356	61.7	90,131	38.3
1925	203,847	117,914	57.8	85,933	42.2
1927	214,559	121,982	56.9	92,577	43.1
1929	206,416	108,450	52.5	97,966	47.5

Source: Census of Manufacturers, 1929, Vol. II pp. 356 and 368; Vol. III, pp. 158, 225, 378, 380, 466. Data are a combination of Census classifications (1) "Clothing (Except Work Clothing), Men's, Youths', and Boys', Not Elsewhere Classified" and (2) "Clothing, Work (Including Sheep-lined and Blanket-lined Work Coats but Not Including Shirts), Men's." They do not include establishments with annual production valued at less than $5,000.

a/ Data are for establishments located within the city limits rather than within the respective industrial areas of New York City, Rochester, Chicago, Baltimore, and Philadelphia.

Prepared by
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Statistics Section,
Division of Review, NRA
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TABLE XLIV

MEN'S CLOTHING INDUSTRY
Value of Products for the United States, the Five Major Cities, and Outside the Five Major Cities by Census Years, 1923-1929

	United States	Five Major Cities a/		Outside Five Major Cities	
	Amount ($1,000)	Amount ($1,000)	Percent of United States Total	Amount ($1,000)	Percent of United States Total
1923	1,178,715	774,195	65.7	404,520	34.3
1925	1,087,238	691,287	63.6	395,951	36.4
1927	1,079,471	670,514	62.1	408,957	37.9
1929	1,039,554	608,298	58.5	431,256	41.5

Source: Census of Manufactures, 1929, Vol. II, pp. 356 and 368; Vol. III, pp. 158, 225, 378, 380, 466. Data are a combination of Census classifications (1) "Clothing (Except Work Clothing), Men's, Youths', and Boys', Not elsewhere classified" and (2) "Clothing, Work (Including Sheep-lined and Blanket-lined Work Coats but Not including Shirts), Men's." They do not include establishments with annual production valued at less than $5,000.

a/ Data are for establishments located within the city limits rather than within the respective industrial areas of New York City, Rochester, Chicago, Baltimore and Philadelphia.

Prepared by
Industry Statistics Unit,
Statistics Section,
Division of Review, NRA
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TABLE XLV

MEN'S CLOTHING INDUSTRY
Cost of Materials a/ for the United States, the Five Major Cities and Outside the Five Major Cities, by Census Years, 1925-1929.

	United States	Five Major Cities b/		Outside Five Major Cities	
	Amount ($1,000)	Amount ($1,000)	Percent of United States Total	Amount ($1,000)	Percent of United States Total
1925	557,471	345,124	61.9	212,347	38.1
1927	532,379	317,162	59.6	215,217	40.4
1929	524,057	293,454	56.0	230,603	44.0

Source: Census of Manufactures, 1929, Vol. II, pp. 356 and 368; Vol. III, pp. 158, 225, 378, 380, 466. Data are a combination of Census Classifications (1) "Clothing (Except Work Clothing), Men's, Youths', and Boys', Not Elsewhere Classified" and (2) "Clothing, Work, (Including Sheep-lined and Blanket-lined Work Coats but Not Including Shirts), Men's." They do not include establishments with annual production valued at less than $5,000.

a/ Including containers, fuel and purchased electric energy.

Data are for establishments located within the city limits rather than within the respective industrial areas of New York City, Rochester, Chicago, Baltimore and Philadelphia.

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Industry Statistics Unit,
Statistics Section,
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X. LABOR RELATIONS

Two labor unions operate in the Men's Clothing Industry-- the United Garment Workers of America, and the Amalgamated Clothing Workers of America. Mr. Sidney Hillman, president of the last-named group, stated at the pre-Code hearing of July 26, 1933, that the Industry was 80 percent organized. One group of plants in the Industry, located principally in the urban "centralized" areas, is almost entirely unionized, having working agreements with the Amalgamated Clothing Workers. Another group, located mainly in the small cities and country areas, operates under working agreements with the United Garment Workers of America.

Until around 1910-1911, the United Garment Workers, affiliated with the American Federation of Labor, was the only union in the Industry. Labor, in 1911, struck against both management and labor leadership. The Amalgamated Clothing Workers' Union was founded and has since become the dominant union of the Industry. The Chicago strike of 1911, headed by the Amalgamated group, led to the recognition of a more responsible relationship of manufacturers to employees. The irresponsible contractor control system in Chicago was eliminated. The aggressive Amalgamated Union by 1919 had achieved unionization of the entire ... Chicago market and of other large markets throughout the country. The important New York market has had agreements with the Amalgamated since 1914; the last strike was in 1920.

According to Charles E. Zaretz (*), "It was only with the organization of the Amalgamated in 1914 that an upward swing in wages and a downward trend in hours began and continued steadily from 1914 until 1924..." His investigations and analyses of other studies indicated that:

> "...while in the men's clothing industry the working week has been reduced 14.6 percent in the 10-year period between 1914 and 1924, it was reduced only 9.3 percent in ...34 manufacturing industries and 7.5 percent in..... eight 'union manufacturing industries' during the same period. A similar comparison in full time earnings of the three groups shows that while in the men's clothing industry the weekly earnings increased 156 percent between 1914 and 1924, during the same period the increase for.....eight 'union manufacturing' industries was 109 percent and for.....24 manufacturing industries only 108 percent. These comparisons indicate that since the organization of the Amalgamated the working hours and earnings of the clothing workers have improved in a much greater degree than the working hours and earnings of the worker in both the unorganized and partly organized manufacturing industries."

(*) "The Amalgamated Clothing Workers of America," (New York, 1934) Pages 245-246.

In considering the above improvements in hours and wages in the Men's Clothing Industry attributed to efforts of the Amalgamated Union, it must be remembered as pointed out by Mr. Zaretz that in 1914 and prior thereto the Industry "was notorious for the low wages and long hours that prevailed in it." In 1914, according to U. S. Bureau of Labor Statistics reports, the average full time hours per week was 51.3 and average full time earnings per week was $13.06.

The Amalgamated's efforts toward stabilizing conditions in the Men's Clothing Industry can best be presented by a summary of a March 1, 1932, article appearing in the Survey, by Sidney Hillman, President, Amalgamated Clothing Workers of America, entitled "Labor Leads Toward Planning." Mr. Hillman described the efforts and aims of the Amalgamated as follows:

> The Amalgamated from its inception recognized that an attack on the Men's Clothing Industry's problems was a concern of both employers and employees. "This meant joint employer and employee attack on the specific problems of stabilizing production, reducing costs, eliminating waste, composing difference promptly and peaceably, and taking advantage of new technical advances in the industry without impairing the worker's earnings."
>
> It is pointed out that the problem of individual production and wages lead to insistence on piece-rates. All of the Industry except New York was on a piece-rate basis in 1923, and five years later New York adopted the practice. It is asserted by Mr. Hillman that the adoption of piece rates by the Industry standardized output and made a minimum of earnings certain.
>
> Loss from strikes was offset by setting up impartial machinery for continuous arbitration. The impartial chairmen of the various market areas became both mediators and conciliators.
>
> The mechanization problem was attached jointly by employers and employees. The Union recognized that resistence to new machinery and labor-saving devices weakens the competitive position of union employers and diminishes employment by the effect of high prices on consumer demand. Hence, the Union encouraged improvements but maintained a measure of control over them as by "permitting the introduction of pressing machines only in relation to the capacity of the Industry or of a particular shop to absorb the displaced workers." Arrangements for payment of dismissal wages sometimes amounted to $500 for a displaced worker.

In this connection, Mr. Hillman recalls the instance of a displacement of 150 workers in one Chicago plant over a five-year period by technological improvements.

The problem of waste and overhead was attacked,. Attempts were made to eliminate waste and unnecessary overhead and to pro-rate the benefits to workers. The workers assumed more and more responsibility for increased quantity and quality of output. This led to a changed attitude upon the part of the worker to his job, and even led to the setting-up of a few shops run by the Union.

The Amalgamated established a measure of security for the workers at the time of a falling in volume of production by an equal division of work principle. Also, factories having contractual relations with unions usually provide for tenure of employment, i.e., a worker is usually permanently attached to a factory, after a probationary period, and may not be discharged except for cause.

In order to meet the basic insecurity of business unemployment insurance was provided for by the Amalgamated. This began in 1923 in Chicago, and five years later was established in New York and Rochester. The Chicago plan, says Mr. Hillman, was "originally thought of as an incentive to greater stability as well as a relief measure."

Mr. Hillman concludes: "We have succeeded in making both production and employment more regular in normal times and in protecting employers and workers to some degree from the worst effects of the depression....The 25 percent in the industry which stayed out from union influence materially interfered with the program which three-fourths of the industry accepted and found workable..... This proves first that voluntary cooperation in economic planning is not enough; and second, that no one industry can stabilize itself entirely by its own efforts."

"It is the responsibility of the government to create an instrumentality that will guide a national economic plan."...The problems calling for large-scale planning are: "The length of the working day and week, jobs for all people willing and able to work, technological unemployment...A minimum wage to be paid in all industries...."

XI. DESCRIPTION OF DISTRIBUTIVE CHANNELS*

In men's clothing, the principal channels of distribution include wholesalers and jobbers, retailers, [illegible], chain stores, direct-to-consumer, and buying offices (fee and commission houses).

A. Wholesalers and Jobbers.

"There is no single orthodox method of distribution. Frequently manufacturers utilize a combination of trade channels. For example, in large cities manufacturers of clothing may find it desirable to own, or at least control in part their retail outlets. In smaller cities, they may find it best to use available, regular retail channels or work through wholesalers who cater to retailers in a particular vicinity. Manufacturers may sell direct to large department stores and chain stores, and distribute indirectly to retailers who purchase in smaller quantities.***

"***Direct selling has become the dominant method of distributing men's apparel. In clothing and hats it is used almost exclusively***. The practice of direct selling raises the related problem, the exclusive agency. In other words, direct selling has made for selective selling. The dominance of direct selling is somewhat obscured, because of the fact that many former wholesalers of men's wear have become manufacturers, and are distributing their wares direct to retailers. This is true of some prominent concerns in the men's clothing trade which have been looked upon as the classic examples of wholesalers and jobbers. This movement toward direct selling, has tended to integrate the market, and today manufacturers control of retail outlets is not uncommon."(**)

1. Reasons for Direct Selling by Manufacturers.

"***Why is it that direct selling occupies so dominant a position? Perhaps the basic reason is the nature of the product. Most items of men's wear are of such a seasonable nature, and possess such style elements, as lend themselves to this form of selling. Coupled with this is the localization of the men's apparel industry, which makes it easy for retail buyers to go to the market and purchase a large portion of their orders direct.

(*) Prepared by A. Palma Aaronson, member of the Men's Clothing Industry Study group, Textile Unit, Industry Studies Section, Division of Review, NRA.

(**) Kenneth Dameron--Men's Wear Merchandising--The Ronald Press Co., New York, 1930. Pages 370-371.

Further, the style risk is so great in some lines that wholesalers cannot afford to carry a large supply. It is held in some quarters that controlled buying may reinstate the importance of the retailer. This will not happen in men's wear. This buying will continue to be done by resident buyers, by cooperative buying associations and by retail buyers, who go to the market.***

"One would normally expect such items as work clothing, where the style element is lacking, to be distributed through wholesalers, but instead of a large system of sectional wholesale houses distributing these products we have system of sectional manufacturing plants supplying directly the needs of retailers of a particular district. There still remain, however, a considerable number of products which wholesalers do distribute.***

"Many wholesalers, while still operating under the business name of wholesaler, are also engaged in manufacturing, and they sell their products direct to the retailer. In only a few cases do they sell to other wholesalers.***

"Many of these concerns started out as manufacturers of a very few items, and were known to the trade as wholesalers. In more recent years, some of these firms have gone back to manufacturing exclusively. Other concerns interviewed started out as retailers, later went to wholesaling, then to manufacturing.***

"Most of these former wholesalers have turned to manufacturing because of competitive conditions, opportunities for greater profit, ease of selling goods of their own manufacture; in some cases, they turned to the manufacture of certain items which had been discontinued by producers for whom they themselves were distributing.

"Wholesalers of men's apparel are finding it advisable to (1) develop their own brand; (2) establish control of their outlets; (3) act as resident buyers for a group of retail stores; and (4) organize and supply cooperative retail buying associations." (*)

Up to the end of the nineteenth century, or at least prior to the advent of the automobile, wholesalers as a class constituted perhaps the most powerful single factor in the business. They knew the needs of their trade, bargained with the producers for their stocks, often financed the manufacturers, sold the major staples of their line under their private label, sent their emissaries over far-flung territories, financed their customers and in manifold directions wielded a tremendous influence.

(*) Clark, Fred E., Readings in Marketing, New York, The Macmillan Co., 1933, pages 311-312. (Adapted from Kenneth Dameron, Men's Wear Merchandising.)

"With the dawn of the twentieth century, two comparatively new forces began to exert a definite and unfavorable influence upon the fortunes of the wholesaler--the automobile and advertising.***The automobile served to eliminate the chief dependence upon railroads for transportation of persons and goods.***Registration of motor vehicles in the United States jumped from 8,000 in 1900 to 450,000 in 1910, to 8,225,000 in 1920, to 23,000,000 in 1930.***

"***Individual consumers as well as retailers found it increasingly possible and profitable to explore nearby towns and more distant cities. Such excursions developed new tastes, new desires, left the consumer less willing to be satisfied with what the local stores provided and the retailer less ready to submit to the dictates of the distant wholesaler as to quality, style, and brand of the goods he was to handle.

"That new independence found a ready ally in the rising popularity of national advertising***.

"Wholesalers found it no longer possible to hold the desires of their retailers and their consumers within the narrow limits of their own lines. Instead,with increasing frequency, they found themselves confronted with the demand for a specific brand of goods, in specific sizes, often at a specified price. Advertising was beginning to change and shape the demand of the American Consumer.

"The wholesalers were rapidly losing control over their market, losing the freedom to choose what goods they would handle***the majority of wholesalers***simply disregarded what was going on around them and continued to do business in the same old way.

"As the direct result of their lethargy, many were forced out of business. In some lines the process of elimination was speeded by other factors.*** Shoe, hat, clothing wholesalers all saw chains invading their field and capturing an ever-increasing portion of available business.***

"Wherever wholesalers have survived, their places of business, their business psychology, their internal business methods and procedures of today generally bear but a fleeting resemblance to the old establishments of the former days. These modern wholesalers have learned to recognize that regardless of what name a system of distribution may carry, so long as goods are not consumed at the point of their final productions there must ensue certain processes of handling, transportation, warehousing, etc., which become increasingly more indispensable and complicated as the distance between point of production and consumption widens.***"*

(*) C. Fred Rost, Distribution Today (New York, 1933) pages 30-32.

B. Retailers.

1. Department Stores(*)

"Department stores as a group registered a reasonable and wholesome rate of growth up to the period of the World War. During the ten years following the war they expanded in numbers as well as size of individual units in a manner that reflected a state of unbounded, perhaps even wild, optimism on the part of department store executives, as to the future opportunities of such type of retail establishment.

"Many new and larger buildings were erected. Existing buildings were enlarged, modernized, reconstructed or refurnished.***

"These increases in physical plants and equipment were paralleled by growths in the development of more complicated methods of organization, procedure and customer services.***

"Thus department stores reached the end of the boom era while carrying an unprecedented burden of new expenses. Their cost of maintenance of plant and equipment had mounted through increased interest charges, higher taxes, more insurance, repairs and replacements, and the operating expenses of each department had grown substantially through the addition of new functions and more elaborate customer service."

Distribution methods were changing in all industries, but in men's clothing, even more than others.

"The details are most interesting, they reflect the powerful forces at work in manufacturing today; namely the

"1. fight for control of distribution,

"2. the centrifugal forces leading to mergers, particularly 'distribution mergers',

"3. the apparently contradictory double tendency of price levels both downward and upward,

"4. the tendency to get closer to the consumer,

"5. the dominance of chains.

"There have been radical changes from the early days up to the present.

"Today a famous old-time advertiser like Kuppenheimer is so hard put in the struggle that the best he can do in a great

(*)O.Fred Rost,Distribution Today(New York,1933) pages 43-44.

city of New York is to distribute through Bloomingdale's; while Fashion Park Associates, using the new tool of the distribution merger to shape a vertical trust of immense size, have come to dominate New York and Chicago." (*)

We also find that large retailers are making financial alliances with manufacturers of men's clothing, developing a vertical organization of their own, both sides using every means within their power to obtain control of the metropolitan markets.

The idea of clothing manufacturers' owning or having an interest in large retail establishments or of retailers' having an interest in manufacturing plants is not new. Up to comparatively recent months, John David, A New York retailer, has had a financial interest in Stein-Bloch, and Wallach Brothers in Hart, Schaffner & Marx. (**)

The chief reason for exclusive agencies in the men's clothing industry is that if a high degree of efficiency is to be reached between the retailer and manufacturer a close relation is called for. This is true in the small cities as well.

Hart, Schaffner & Marx are reputed to own or have a financial interest in almost 400 stores throughout the country. This is not known by the general public and it is because of this that the "double-label" system is used; i. e., retailer and manufacturer label.

The Richmond Clothing Company (Richmond Brothers) is one of the largest manufacturers of men's clothing in the world, having (***) 62 of its own retail outlets, located mainly in the Middle West and South. Another large manufacturer similarly situated is the Aplo Company, of Rochester, New York, best known as the Bond Stores, with locations in the East and North Central states. Each of these firms, as well as several others, operates on a single price unit; i. e., the cost of the same quality merchandise is the same in all of the company's retail outlets; usually the various concerns offer two or more grades for consumer choice.

These firms operate on the mass production or "Ford" system and offer to merchandise men's clothing at lower prices than known heretofore. Their stores are not pretentious or "showy" places, but sell the consumer the idea that his money goes into the suit and not fixtures. It is for this reason that increasing numbers of men in the middle classes prefer to buy their clothing on the "Ford" principle.

(a) Direct to Consumer

This same principle is also employed in the house-to-house or direct-to-consumer method of distribution of men's clothing. This

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(*) Paul Freeman, "Changes in the Men's Clothing Industry." Advertising and Selling. (May 15, 1929).
(**) Freeman, supra.
(***) Fairchild's Retail Book (Fairchild Publications. 1934)

method of selling has enjoyed a healthy growth in recent years. The most fertile field for this business is in the Southern and Western states where several hundreds of thousands of garments are being sold each year. In all probability this is due to the greater style consciousness of men inthe smallercities and towns who read, hear, and see more of their city brothers via motion pictures, radio, automobile, and magazines. Then, too, the local stores do not have the finances nor space that would enable them to stock a complete line of a well-known brand.

House-to-house selling is one of the oldest methods of distribution, varying greatly in volume from year to year.

> "It seems that house-to-house selling of the ordinary staple forms of merchandise, including food and clothing, develops very rapidly during and after a period of business depressions. When business improves employment is greater and money is more free, and house-to-house selling apparently declines.
>
> "During the past 40 years there have been three active periods of house-to-house selling; that is, periods in which this method of distribution to consumers has assumed proportions sufficiently large to threaten the regular retail channels. These three periods were from 1894 to 1899, 1908 to 1912, and again from 1921 to 1925. In each case the period of active development of house-to-house selling followed a business depression. If this explanation is correct, it may be assumed that whenever there is another business depression a period of active house-to-house selling will follow and that as business improves this method of distribution may again decline in importance.(*)

Cincinnati is, or seems to be, the center of manufacture for the house-to-house type of business.

An example of well-known companies to sell direct to consumer is the Nash Tailoring Company of Cincinnati, Ohio, selling over 500,000 garments annually, having a price range from $18.50 to $50.00. Richmond Brothers also use this method of distribution as well as through their retail stores, the purchaser making his selection from sample swatches and being measured by the manufacturer's agent, who follows the manufacturer's printed directions on the subject.

2. Mail Order Houses.

The mail order business is the brain child of A. Montgomery Ward, who in 1872 started sending out catalogues to farmers.

Montgomery Ward was a buying agent for the National Grange, a fraternal and economic farmer-run organization offering its members, among other things, the benefits of cooperative buying.

It was realized by the founder of this company that it was with

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(*) Fred L. Clark, Readings in Marketing (New York, The Macmillan Co., 1933) page 314.

difficulty that the farmer got into town to shop. Also that in the stores in small towns stocks were naturally limited because of their location and the area of distribution served. By 1880 Montgomery Ward & Company was doing a business in excess of two million dollars.

> "In 1890 Richard Sears and A. C. Roebuck, who had run a mail order watch company formed the Sears, Roebuck & Company. In 1908 Sears had caught up to Montgomery Ward and in 1920 was over twice the size of its competitor. The mail order plan proved extremely popular with those consumers who lived in small towns, villages and on farms, for it gave them the opportunity to secure a wide variety of merchandise not generally stocked by the merchants of their community.
>
> "Another boom to the mail order business was the inauguration of the U. S. Post Office Department's rural free delivery service and parcel post service.
>
> "Competition comes from manufacturers and smaller so-called mail order houses handling only a few specialized lines such as wearing apparel, stoves, implements, etc."(*)
>
> "The decline of the mail-order business began with the advent of the low-priced automobile, causing the disappearance of frontiers, and it gained momentum substantially in direct proportion to the increase in the number of motor cars in public use and the increase in the mileage of the improved country roads and paved highways. This meant that the rural consumers, who up to then had been accustomed to select their needs from the alluring pages of the mail-order catalogues, were now riding in their automobiles over improved roads to the nearest shopping town or city in increasing numbers. There they were spending their cash in a store, while at the same time they could enjoy the thrill of actually seeing, touching and trying on the things they wanted to buy, and seeing the sights of the town in the bargain."(**)

Then, too, the chain stores were crowding into the smaller towns as well as the metropolitan centers. Firms like J. C. Penny, W. T. Grant, Woolworth's and Kroger were expanding at a rapid rate.

Certain circumstances caused the two large mail-order firms to look for business outside of their usual channels and to open up retail stores. One was that if one of them bought a large amount of high-priced goods and put out a catalogue setting prices for six months and their market falls, that firm is in for a drubbing. The decision to open retail stores was first made by Sears, Roebuck & Company (first opened in 1925 in Chicago). Montgomery Ward countered with a plan to open 1500 stores. They had 36 stores by the end of 1927. Neither of the

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(*) Fortune, January, 1935.

(**) O. Fred Rose, Distribution Today (New York, 1933) page 86.

concerns established the number of stores they originally planned. The maximum number of stores reported by Montgomery Ward & Company (*) was 556 at the end of 1930, and by Sears, Roebuck & Company, 378 stores at the end of 1931.

The two companies experienced a number of difficulties due to their newness in the retail business and because it was difficult to divorce themselves entirely from mail-order ideas and adapt themselves to retail selling in a short space of time.

Both mail-order houses have reduced the number of stores in operation, Montgomery Ward & Company reporting 489 in 1933 as compared with 556 in 1930, and Sears, Roebuck & Company having approximately 352 stores as compared with 378 in 1931. Mail order and store sales by Montgomery Ward & Company may be accepted as reflecting the trend of proportions for both companies.(**)

	Mail Order	Retail
1926	183,800,000	
1927	158,680,000	27,002,400
1928	136,200,000	58,100,000
1929	1[illegible]0,800,000	116,500,000
1930	111,700,000	137,400,000
1931	81,[illegible]00,000	113,900,000
1932	68,[illegible]00,000	107,900,000
1933	78,000,000	109,600,000
1934	108,000,000 (est.)	144,000,000 (est.)

Compared with the total shown by the 1930 Census of Distribution, the combined 1929 sales volume of Sears, Roebuck & Company and Montgomery Ward & Company represented approximately 1.3 per cent of the total retail sales in the United States.

C. Resident Buyers.

There are about three thousand department and specialty stores in the United States which have New York buying affiliations of some kind.

The Association of Buying Offices, Inc., is an organization of central buying for department and specialty stores doing well over a billion dollars annually. Its membership is composed of three types of buying offices; those representing a store or group of stores having joint ownership, those cooperatively functioning for a group of independent stores, and those privately owned whose services are offered to independent stores on a fee basis.(***)

(*) O. Fred Rost, Distribution Today (New York, 1933) page 83.

(**) Fortune, January, 1935.

(***) H. I. Kleinhaus, Executive Secretary, Association of Buying Offices, Inc.

"The purpose of the Association in part is to inculcate just, ethical principles of trade and promote fair dealings in all matters relating to the business, trade and affairs of the members and/or their principles; to secure freedom from and abolish unjust and unlawful practices, abuses and exactions of every kind, etc."(*)

"The largest and most important operators, from the viewpoint of manufacturers distributing nationally, are the 15 leading group and resident buying organizations which represent approximately 460 stores, exclusive of duplication. The total volume of purchases of these organizations is unknown, but the proportion of total purchases of any one store placed through the central office varies greatly--with the merchandise, with the store, and with the character of service maintained by the central office.

"Contrary to popular impressions, resident and group buying associations do not buy the majority of goods purchased by member stores. The percentage of certain houses ranges from around two per cent for ready-to-wear to as high as 75 per cent for some staple lines. Unless the central office is buying for a true chain organization, a substantial proportion of all important lines of merchandise is still purchased by the individual store buyer.

"Likewise contrary to general impression, the action of the central office in purchasing any line of merchandise does not take the place of wholesalers and mill agents in the distribution scheme as a whole, or in the selling to individual stores who subscribe to the services of a market representative; and the action of the central offices does not stymie the buying and selling operations as it is thought to do.

"It is also a fallacy that manufacturers' salesmen cannot go direct to the store buyer and sell him the same character of merchandise as is being purchased to greater or less extent by the New York office of that store. They can and they do.

"There are no clearly-defined lines dividing the proportion of orders placed through the central office and those placed in the market or with road salesmen by store buyers. The proportion of any merchandise purchased through the market representatives, and the number of departments for which such purchasing is done depends upon (1) the character of central office, (2) the character and location of the client and stores, and (3) the facilities of the central office, or the type of agreement with the member stores.

(*) H. I. Kleinhaus, Executive Secretary, Association of Buying Offices, Inc.

"Kinds of Central Offices

"The resident buyer is a market expert selling his services in the location, appraisal, and selection of merchandise for independent stores on a salaried or commission basis, and is limited in his purchasing to the individual orders of, or the acceptance of his selections by the client stores.

"The group, or syndicate, association is generally owned outright by a group of stores and is empowered to buy for the group such portion of any line or such amount of any merchandise as the member stores agree upon.

"The New York office of one or more corporate-affiliated stores functions much as the group association, and differs only in its smaller size and lesser power.***

"Centralized buying originated with the realization that staple merchandise could be purchased through a central source to the advantage of individual retail merchants. It was later extended to include style merchandise in order that retailers might lessen the chance of loss from excessive markdowns on improperly purchased goods, from high advertising costs to sell the mistakes of buyers' judgments, and from public fickleness.

"The central office system has developed, not from a desire to change sources of purchasing, but because of an economic need on the part of large stores to place some of their purchases more directly, and to obtain certain services not provided by the old-line systems of distribution.

"Limitations which develop in the system of market representatives come, not so much from faults in the method itself, as from the conformity of all stores to one standard of merchandising.

"It was natural that the system should preserve its identity and justify its early intentions by extending its operation to include practically all kinds of merchandise sold by department and dry goods stores. This brought centralized buying organizations into what appears as competition with some, but not all, of the business of the wholesaler. More lately it has indicated duplication with the salesman's functions before the retail store buyer.

The group buying association is outstanding today because of its unique purchasing power. What group association elects to purchase is purchased for each member store, while what the resident buyer selects to recommend to his clients is not sold to them unless they, in turn, are willing to accept it.

"Generally speaking, what the group buys is taken by all of its member stores, while the resident buyer generally places individual orders for his respective clients, or purchases quantities under favorable conditions and makes them available to his clients as they needs arise; rarely does he buy for all of his stores in one operation.

"Both the resident buyer and the group or syndicate in many cases have developed to such an extent that they can buy any merchandise they want, from practically any source, and in any quantity. Their units of purchase, representing the aggregate needs of several very large stores, are of such tremendous market significance that the group is, by rights, a preferred customer of the manufacturer and established relations are highly important.

"As the central buying office increases its operations, which is the intention of these organizations, its importance in the distributive system must be reflected in the policies of manufacturers. Resident buyers and group associations must be recognized as economically justified parts of the orthodox distributive system, not as competitive to it nor as predatory to its older components.

"But it should also be remembered that while central offices are powerful factors in the distribution of department store merchandise, they have not succeeded is displacing the store buyer and they are not functioning 100 per cent in the purchase of department store lines.

"Whether the central office buys 75 per cent, or two per cent, of any line of goods for any one or several of its member stores, the remainder is purchased as usual by the individual action of the store buyer--either from his desk in the store or upon his visit to the market centers. This fact is not always known or appreciated by the manufacturer's or wholesaler's salesman.

"Over-emphasis of the extent and importance of central office purchasing has caused many to lose sight of these facts. While there are some 2500 stores affiliated with central offices of various kinds, and their purchases through those offices are indisputably important ones, there are over 30,000 additional worthwhile independent stores which do not have central office connections.

"Some of these purchase only a quarter of their goods from wholesalers; some purchase practically all from the jobber; all use many sources of information and supply other than market representatives.

"These are the merchants whom manufacturers must sell through wholesalers. They, like their big brothers in the group associations, must be contacted and served in much the same way that they have been during the last quarter century.

"We do not, therefore, have in centralized buying a form of distribution taking the place of established systems, uneconomically competing with established systems, nor incompatible with the long-established and successful relationships of manufacturers with their customers.

1. "The Attitude of Manufacturers.

"There is no doubt but that the growth on centralized buying in its many forms is an established fact; likewise, that, from every responsible indication today, distribution through central offices will become even more common in the future. Complications in distributive policy and dealer relations will naturally present themselves as manufacturers learn to recognize this factor in distribution; but the newer buying methods are entirely sound, and are here to stay. They cannot be successfully combated nor ignored by producers.

"Harmonious relations with all distributive factors must be developed and maintained.

"Dissatisfaction occasionally is expressed by wholesale distributors, and manufacturers distributing the bulk of their goods through jobbers often feel that to sell to resident and group buying houses constitutes direct competition with jobbers and with that portion of goods which passes (or is intended to pass) through the hands of wholesalers.

"The manufacturer naturally wishes to feel that he is protecting his wholesale representatives, because they long have been and still are the chief part of his selling organization. There are reasons, however, why the central buying office should not be frowned upon, and why the protection of jobbers cannot be carried to an extreme. Just as in those cases where the largest retailers are not properly served by wholesalers, and demand the right to purchase direct from the manufacturer, stores which have assigned the buying of any lines of merchandise--or the purchase of any given quantity--to a central office present a situation which must be accepted by the producer.

"If the resident or group association is the established custom with certain retailers, and if it is remembered that neither the resident nor group buying office affiliation really stymies the purchase of goods by the store buyer, it is clear that for the manufacturer to discriminate against the sale of his goods through central offices would be unsound.

"It would be no more justified for the producer to contest the presence of the central office than for him to forego the volume obtainable by selling direct to large department

stores, merely in order to favor a complaining jobber who feels that the large store is his customer because it is in his territory.

"To refuse to sell to central offices, to placate wholesale distributors with promise of discrimination against the group, to feel that manufacturer's salesmen cannot approach the buyer whose store has central office connections, or to assume that all producers do not have an equal chance to sell the central office, is wrong. To take the attitude that centralizing is equivalent to mechanizalizing, and that the orthodox methods of contacting, developing, advertising to and cultivating customers are becoming obsolete is an unqualified mistake.

"To react in any of the above ways to the central office factor in distribution can result only in harm to the manufacturer. It will limit his outlets, obstruct the consummation of rightful business volume, narrow his opportunities for sales, occasion open opposition, or mere disregard, from the central office organizations; and resistance will not result in the development of more pleasant or profitable representation by the old-line distributive factors.

"I have found no attitude toward manufacturers on the part of the central buying offices which would justify the fear of them that some manufacturers seem to hold.

"I am of the opinion that more of the fear of selling through resident and group buying associations is occasioned by overemphasis of the theoretical contingencies of doing so than by actual fact.

"The central offices which occasion the worry of those manufacturers accustomed to uninterrupted distribution through wholesalers display a genuine appreciation of the necessity of maintaining mutually satisfactory relations with manufacturers and their selling agents, and of the manufacturers' maintaing their identity with all distributors and purchasing factors. They recognize that there is enough business obtainable through each of the many channels of distribution to assure the continuation of each to make each useful to the manufacturer and the retailer." (*)

(*) Gordon H. Bush, "How the Resident Buyer Functions," Advertising and Selling, Volume 13, No. 4 (June 12, 1929) page 17.

XII. MATERIAL AND GARMENT STANDARDS IN THE MEN'S CLOTHING INDUSTRY. (*)

The records show no uniform material and garment standards for this Industry. That standards are necessary for the protection of the honest manufacturer and the customer has been fully recognized by the manufacturer, retailer, and consumer.

Reliable manufacturers are insistent upon knowing how their raw materials will behave during the manufacturing process. The consumer likewise wants to know how an article will perform and how durable it is.

The following standards have been suggested as a start; and the acceptance by this Industry of even one of these would be a long step in the right direction and, it is hoped, lead to the full and proper standardization of the Industry:

I. Measurements

II. Fibre Contents

III. Shrinkage

IV. Color Fastness

V. Proper labeling to cover the above.

A. Measurements.

> "The purpose is to provide standard methods of measurement, standard measurements and tolerances for the guidance of producers, distributors, and users, in order to eliminate confusion resulting from a diversity of measurements and methods, and to provide a uniform basis for guaranteeing correct size." (**)

Miss Ruth O'Brien, of the Bureau of Home Economics, United States Department of Agriculture, has given this problem a great deal of study. The following excerpts have been taken from her article, "An Annotated List of Literature References on Garment Sizes and Body Measurements":(***)

> "The marked growth of ready-to-wear clothing has brought with it many difficulties in the proper sizing of garments. (Page 1.)

(*) Prepared by C. C. Boyden, member of the Men's Clothing Industry Study group, Textile Unit, Industry Studies Section, Division of Review, N.R.A.

(**) Recommended commercial standard for circular flat knit rayon underwear adopted by the General Conference of June 24, 1931. (Men's Clothing Code Files.)

(***) United States Department of Agriculture Miscellaneous Publication No. 78, May, 1930.

"Some of the difficulty is due to the practice of "skimp-cutting" garments in order to undersell competitors. Some is due to the lack of uniformity in the sets of measurements used by different manufacturers for the same specified size of age. The greatest trouble of all, however, lies in the fact that, with the exception of one study made by the United States War Department (Ireland, Davenport, and Love "Statistics Part One, Army Anthropology") in an effort to establish proper sizes for uniforms (during demobilization after the World War) they directed the measurements of 100,000 men, taking those measurements necessary for uniforms. This was done according to scientific methods, and is the only published report of a study of this kind made with clothing construction definitely in view), no scientifically determined measurements have ever been published which could be used for clothing construction. (Pages 2 and 3)

"The measurements now in use are apparently the result of traditional practices somewhat modified in accordance with complaints received by manufacturers and influenced more or less by data of doubtful value that have come from various sources. Although some clothing firms may have conducted investigations from time to time and perhaps are holding the results as trade secrets, it is unlikely that any considerable number of these were made by trained anthropometrists and the results properly analyzed by statisticians. In fact there are many indications that ancient ideas of proportions are still being relied upon. (Page 2)

The great importance of taking all body measurements according to the best anthropometrical methods cannot be too strongly urged. If the examiner has not been trained in locating body landmarks and taking measurements, and if the instruments used are not accurate and suitable, the results are worthless.** The methods and instruments of the science have been very carefully worked out, and it would be necessary only to decide upon different body landmarks to make them applicable to the studies needed to establish measurements for clothing construction. (Pages 3 and 4)

Measurements Now Used in the Clothing Trade.

"The publications on measurements used in the clothing trade are apparently limited to discussions of proportions and systems of drafting devised by various workers. The proportions recommended seem to be based entirely on traditional ideas and not on actual measurements of individuals. In the few cases in which such studies are mentioned, no details of procedure or data are reported. It is therefore impossible to evaluate the conclusions drawn. *** " (Page 6)

That a start toward garment standardization has already been made is shown by the following excerpt: (*)

"Garment Sizes

"A number of Commercial Standards relating to dimensions of ready-made clothing have been established under the auspices of the Bureau of Standards: Minimum measurements for boys' blouses, waists, shirts, and junior shirts (95); (**) knit underwear (other than rayon) (102); (***) and men's pajamas (89). (****) The measurements agreed upon by the manufacturers and issued as these standards were based upon surveys made of the measurements being used by manufacturers before the standards were established."

B. Fibre Contents.

For the protection of the grower, manufacturer, retailer, and consumer, it is important that the fibre contents of the material from which the garments are made should be shown on the garment, at least as to the basic product (wool, cotton, etc.).

It should be possible for the clothing manufacturer to know the composition of the cloth he purchases. In lieu of any definite "Service" standard, a statement of the percentage of wool and cotton would seem a minimum requirement which need add practically nothing to the cost of the clothing.

(*) "Present Guides for Household Buying" by Ruth O'Brien, Chief, Textiles and Clothing Division, and Medora M. Ward, Assistant Economist, Economics Division, Bureau of Home Economics. U. S. Department of Agriculture, Miscellaneous Publication No. 193, April 1934. (Page 16)

(**) (95) - Bureau of Standards - 1931, Boys' Blouses, Button-On Waists, Shirts, and Junior Shirts. U.S. Dept. Com., Bur. Standards Com. Standard CS14-31, 16 pp., illus.

(***) (102) - Bureau of Standards--1932. Knit Underwear (Exclusive of Rayon). U. S. Dept. Com., Bur. Standards Com. Standard CS33-32, 49 pp., illus.

(****) (89) - Bureau of Standards--1930. Men's Pajamas. (Made from Woven Fabrics.) U.S. Dept. Com., Bur. Standards Com. Standard CS15-29, 12 pp., illus.

The consumer, as a general rule, if financially able, prefers clothes of all wool construction, as against inferior fabrics. Without the proper labeling of the fibre contents of the goods from which the garments are made, the consumer is forced to depend for his information regarding the quality of the clothing he is buying on the salespeople, who may know very little regarding that which they are offering the customer.

In wool fabrics, the fibres used generally characterize the apprearance and durability of the finished goods. Fabrics made of wool, cotton, shoddy, and other substances differ from each other due to having passed through different processes of manufacture. There also arises a difference in the several fabrics due to the individual characteristics of the fibres of which they have been separately made.

Marking fibre contents would tend to bring the price between all wool fabrics and those with less or no wool and those containing reworked or reclaimed wool into closer price adjustment.

The use of substitutes for wool affects the quality of the cloth produced as to the warmth, elasticity, durability, and strength. The showing of the fibre contents will aid and protect the consumer in the selection of his clothing, and afford the manufacturer, retailer, and all others in the Industry an opportunity to sell their garments on their true fibre contents.

Theoretically the most effective agencies, and they are many in number, are naturally those created by the Federal, State and Municipal Governments, the reason being that they are answerable only to their governments. Their duties and activities are defined by law. In the Spring of 1935 there was introduced into Congress the following:

"A Bill

"To protest procuders, manufacturers, and consumers from the unrevealed presence of substitutes and mixtures in woven or knitted fabrics and in garments or articles of apparel made therefrom, manufactured in any Territory of the United States or the District of Columbia, or transported or intended to be transported in interstate or foreign commerce, and providing penalties for the violation of the provisions of this Act, and for other purposes.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as 'The Truth in Fabric Act of 1935.'" (*)

This bill is still before Congress, and will come up for consideration again.

The Industry proposed an amendment to the Code of Fair Competition

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(*) H. 7166 In the House of Representatives
S. 2318 In the Senate of the United States

for the Men's Clothing Industry, on which a hearing was held in Washington, April 15, 1935, as follows: (*)

> "Article XII, Subdivision (d)
>
> "The following provisions shall apply only to 'Tailors-to-the-Trade' and/or special order houses of the Men's Clothing Industry:
>
> "1 - All samples of cloth shall be so labeled as to show the content of the cloth so labeled.
>
> "Fabrics labeled 'all wool' shall mean that the fabric so labeled is 100 per cent wool.
>
> "Fabrics labeled 'wool with silk decorations' shall mean that the fabric so labeled shall be all wool with the exception of the decoration, which shall be silk.
>
> "Fabrics labeled 'wool with rayon decorations' shall mean that the fabric so labeled shall be all wool with the exception of the decoration, which shall be rayon or celanese.
>
> "Fabrics labeled 'wool with cotton mercerized decorations' shall mean that the fabric so labeled shall be all wool with the exception of the decoration, which shall be mercerized cotton.
>
> "All other fabrics not specifically included above and containing wool and other fabric substance, such as cotton, shall be labeled 'not all wool'."

No official action was taken on this proposed amendment.

The importance of marking garments to show the true fibre content is brought out very forcibly in the following statement (**) of Mr. Peter a Grossman of the Born Company of Chicago, Illinois, made in connection with the proposed amendment to the Code covering labeling of fabrics.

> *** "The direct beneficiaries of such a provision are that class which both this Administration and the responsible leadership of our Industry have a duty to

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(*) Transcript of hearing on amendments to the Code of Fair Competition for the Men's Clothing Industry, held April 15,1935. Page 23 (Men's Clothing Code Files)

(**) Transcript of Hearing on Amendments to the Code of Fair Competition for the Men's Clothing Industry, held April 15, 1935. Pages 125, 126 and 127. (Men's Clothing Code Files)

protect; namely, the buying public.

"Only a very small percentage of that public has even semi-expert knowledge of textiles. The average man is completely in the hands of the seller in this regard. If a fabric is sold to him as wool, he accepts it as wool. We feel that it is our obligation to see that he gets wool when that is what he thinks he buys.***

"The aforesaid ignorance of the public as to cloth content, its aforesaid dependence on the representations of the vendor, make this a particularly easy field for sharp practice. And this- the unfairest of all forms of unfair trade practice- is definitely on the increase -- due, as I see it, to two factors. One is, of course, the depression, which has made competition so desperately intense, and has put added temptations on those whose business principles are not of the soundest, and at the same time has made the public more than ever susceptible to ostensible 'Bargains'. The other is that the introduction of new fabrics, particularly the styling of cottons to look more and more like woolens, has made it harder than ever for the layman to know what he is buying. I have seen so-called 'cotton worsteds' which are the most remarkable imitations of worsted cloth, yet which do not contain a single fibre that was ever on a sheep's back. When a line made from these cloths, advertised to be 'worsteds', is offered to the public, it is little wonder that the masses are taken in, and believe they are getting a sensational buy, when really the whole transaction is a miserable sell. I feel I need scarcely say more on this topic. The concrete provisions of our article speak for themselves. The purpose of them all is the same; that the purchaser shall be told what he is buying. In a word, we aim to give the public the same protection as it gets from the Pure Food Act.***"

The following excerpts from a circular of the Associated Wool Industries are also of interest: (*)

"WE CALL ATTENTION

"1. To a resolution adopted by the Board of Directors of the National Association of Wool Manufacturers, February 5, 1935, as follows:

(*) Circular of August 15, 1935. "Imitation is the Sincerest Form of Flattery" by Associated Wool Industries. (Men's Clothing Code Files)

"The use of a label on wool or part wool fabrics is not obligatory, but if in labeling or otherwise referring to such fabrics the terms '100% wool', 'all wool' or 'wool' are used, the following limitations must be observed.

" '100% wool' and 'all wool' are synonymous terms and may be utilized only on fabrics made entirely of wool with a 2% tolerance for foreign matter.

"The term 'wool' when used without qualification may apply only to fabrics sometimes known as 'commercially all wool', containing not less than 95% of wool by weight, with a 2% tolerance.

"The use of the word 'wool' in reference to fabrics containing less than 95% of wool by weight is prohibited unless a guaranteed percentage of wool by weight is stated. ***"

"WE URGE

our members to capitalize the superiority of WOOL by properly marking piece goods tickets to indicate the fibres used in the fabric. When the fabric is allwool or largely wool, this information should be given on the tickets, in accordance with the standards adopted by the Association. Not only is it worthwhile for the manufacturer to emphasize the wool content himself but he should urge and, if possible, insist that the dress, coat or suit manufacturer do likewise.

"The emphasis on the use of wool fibre will help to increase consumer demand for wool fabrics. It will help us also to successfully meet the competition of other fibres."

6. Shrinkage

The importance of proper marking of garments to show to what shrinkage treatment the goods have been subjected, is shown by the statement of Mr. Herman Moritz, of the Manhattan Cloth Finishing Company of New York City: (*)

(*) Transcript of hearing on amendments to the Code of Fair Competition for the Men's Clothing Industry, held April 15, 1935. Page 83. (Men's Clothing Code Files)

"The average piece of woolen material delivered by the mills to the manufacturers of men's, boys' and women's clothing contains from sixty to sixty-five linear yards. This means that in the average piece of material there are approximately one hundred square yards.

"Wool is a live substance. Its natural tendency is to contract when exposed to moisture. Exposing it to the moisture of the air will cause it to shrink. For this reason, manufacturers have found it necessary to shrink the cloth made by them into garments. They realize that a garment made from unshrunk material can not possibly retain its dimensions.

"There are two universal forms of shrinking. Ninety per cent of all woolen fabrics are shrunk by steam. Where material is placed in garments of very high value, and there is a desire on the part of the manufacturer to obtain the maximum of shrinkage, the material is subjected to cold water shrinkage, which will reduce the fabric so treated at at least twice as much contraction as that which is obtained by steam shrinkage.

"Shrinking materials by steam, which is called sponging, will show a contracting in length and width of approximately 5 per cent. Cold wat er shrinking will develop a contraction of about 10 per cent. This means that the average piece of woolen material containing originally one hundred square yards will be reduced in area by steam sponging to ninety-five square yards. If cold water shrinking is employed, only ninety square yards will remain after shrinking. It is, therefore, apparent that the unfair manufacturer effects a saving of the yardage which would be lost to him if the material were shrunk."

Later in the hearing, Mr. Moritz stated: (*)

"When you just spoke about a different method of shrinkage, other than Sanforizing or sponging, it is cold water shrinking of linens and cotton goods."

The Industry proposed the following amendment to the Code of Fair Competition for the Men's Clothing Industry, on which a hearing was held April 15, 1935:

(*) Transcript of hearing on amendments to the Code of Fair Competition for the Men's Clothing Industry, held April 15, 1935. Page 92. (Men's Clothing Code Files)

"Schedule A--Proposed Amendments to the Code of Fair Competition for the Men's Clothing Industry.

"7. No garment shall be manufactured of woolen or worsted material or of summer and washable fabrics, which have not been sponged in the piece."

This amendment as approved by the Code Authority reads: (*)

"No men's or young men's garments shall be manufactured of woolen or worsted material, or of summer or washable fabrics, which have not been sponged in the piece."

Excerpts from the statement (**) of Mr. Frank Stutz, President, Better Fabrics Testing Bureau, call attention to the increasing use of unshrunk fabrics and also to the problem of stretchage.

"*** This habit of the garment manufacturing industry to cut up unshrunk fabrics is growing into an evil trade practice that must be stamped out, in order that the trade will return to the original system of conditioning wool fabrics before manufacture into clothing.

"The test records of this Bureau, which is the official testing laboratory of the National Retail Dry Goods Association, a trade organization of 5,400 stores, show that shrinkage of fabrics in consumer use, cleaning, pressing, or laundering is the biggest problem of the consuming public today. It is an outright fraud; selling unshrunk fabrics and garments to the consumer, because the customer cannot protect himself against selection of stretched fabrics for the reason that it is impossible to determine whether a fabric has been conditioned until used.

"The truth about shrinkage is that the problem is really one of stretchage. Unscrupulous fabric firms stretch their fabrics to gain extra yardage, and when the consumer presses, cleans or launders such fabrics the stretchage is lost, thereby creating a condition commonly called shrinkage. Actually, the fabric has simply returned to its original length and width, or

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(*) Transcript of Hearing on Amendments to the Code of Fair Competition for the Men's Clothing Industry, held April 15, 1935. Page 69. (Men's Clothing Code Files)

(**) Transcript of Hearing on Amendments to the Code of Fair Competition for the Men's Clothing Industry, held April 15, 1935. Pages 109, 110 and 111. (Men's Clothing Code Files)

> natural dimensions of the cloth. ***Every consumer is fully justified in asking sales people whether or n not the fabric in any garment has been pre-shrunk for normal service. If a merchant does not know whether his merchandise is serviceable or not, he has no right to serve as the purchasing agent for the consumer in his community."

The statement (*) of Mr. Henry Moskowitz, Impartial Chairman for the Textile Examining, Shrinking and Refinishing Industry, both National and in the City of New York, gave his opinion as to the necessity of proper shrinkage of the cloth and the position taken on shrinkage by an important distributor of women's garments:

> **** "I desire merely to state that disinterested opinion has always regarded the examining and shrinking of woolen and worsted cloth as an absolute necessity for its proper conditioning before such cloth can be turned into a manufactured garment. ***"

Mr. Moskowitz called attention to the following:

> "This is an advertisement of the Textile Refinishers' Association, Inc., of New York City, and refers to a letter from the J. C. Penney Company of New York City.. (The Advertisement follows)
>
> "J. C. Penney Company states:
>
> "'This organization has been exerting every possible pressure on the manufacturers supplying us with women's garments made of woolens and worsteds to the end that all of these goods used in our merchandise be properly sponged and shrunk.'***"

That facilities for the proper shrinkage and conditioning of the cloth, together with the organization to handle the work exists is brought out in the statement (**) of Mr. T. R. Trilling of the American London Shrinkers' Corporation:

> "*** What are the standards of shrinking and conditioning, as practiced today, and do they afford the proper protection to the ultimate consumer?
>
> "As a member of the Committee of Standards, I can answer that question briefly and concisely. Shrinking and conditioning, as performed today, has reached a standard of

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(*) Transcript of Hearing on Amendments to the Code of Fair Competition for the Men's Clothing Industry, held April 15, 1935. Pages 71, 72, 101 and 102. (Men's Clothing Code Files.)

(**) Transcript of Hearing on Amendments to the Code of Fair Competition for the Men's Clothing Industry, held April 15, 1935. Pages 97,98, 99. (Men's Clothing Code Files.)

such efficiency and perfection that I can honestly say that such cloths, as are properly shrunk, can be positively guaranteed against any further shrinkage, in the ready-made garment, to within a shrinkage tolerance of one per cent. ***

"I can further state both truthfully and knowingly, that never in the history of cloth shrinking and conditioning has the Industry been so well organized and in such an advantageous position to carry on the uniformity of the standards of shrinkage as is fulfilled today.

"I will even go a step further and state that never in the history of cloth shrinking and conditioning has there been such a concerted action, consistent effort and definite move made on the part of any industry in the country towards the establishment of a scientific standardization of cloth shrinking and conditioning.

"With the able assistance of the Better Fabrics Testing Laboratories, which is the official testing laboratory for the National Retail Dry Goods Association, and under the guidance of Mr. Frank Stutz, the highly efficient managing director, the committee on standardization has labored unceasingly and conscientiously to bring about a standard of cloth shrinking and conditioning that we hope to have established and recognized throughout the width and length of the entire United States."

Shrinkage has been one of the problems of the Cleaning Industry. Mr. George G. Gaubatz, Jr. analyst in charge of Research of the National Association of Dyers and Cleaners of the United States and Canada, with offices at Silver Spring, Maryland (*) . writes as follows regarding their position:

"In accord with your request after our conversation the other day, we are pleased to set down briefly our position as dry cleaners, on the question of shrinkage in men's suitings.

"Shrinkage in men's woolens has never presented as serious a problem to the dry cleaner as has woolens in ladies' suitings and other similar materials. Cases where shrinkage has taken place in ordinary dry cleaning and finishing, have not been great in number, although there seems to have been a tendency in this direction in the last several years. Of course, when garments of this kind are sufficiently soiled to require a water or wet cleaning treatment, shrinkage is often encountered.

(*) Letter to C. C. Boyden, October 12, 1935. (Men's Clothing Code Files)

"In any event, it has long been our impression that cases of shrinkage in men's as well as other garments, have in a large measure been due in many cases to failure on the part of the manufacturer to properly pre-shrink the material. This has been further complicated by the practice on the part of some manufacturers to actually over-stretch the material in original manufacture, and it is to this practice, especially, that we feel the specifications should be aimed.

"In other words, we, as dry cleaners, feel that specifications for proper pre-shrinking are most essential, but believe that these should also be so worded as to eliminate the practice of re-stretching the material after the shrinkage."

The statements quoted above show the necessity for the adoption of some "standard" method of marking garments, which would show a guaranteed pre-shrinkage treatment. This could be accomplished by some satisfactory form of grading, as, for instance,

"A" - for full cold water shrinkage.

"B" - for steam treatment according to some definite procedure.

"C" - to show some minimum treatment.

D. Color-Fastness.

-- is self-explanatory and would refer to all phases of color-fastness to be expected from the fabric from which the garment is made, under ordinary wear and exposure.

E. Labeling.

Large, expensive labels are not necessary. It would be sufficient to use labels large enough to be easily seen, on which size, fibre contents, quality of shrinkage and statement that the goods are or are not color-fast are clearly marked so that the purchaser will know what he is buying.

In this connection, it is interesting to note the following:

"Dr. D. E. Douty, President of the U. S. Testing Co., Inc., speaking (*) before the American Association of Textile Chemists and Colorists at the Chemists' Club in New York of 'Consumer Technical Information; Its Preparation and Distribution':

" 'In my opinion', said Dr. Douty, 'the chief value of compulsory labeling lies not in the technical information given to and utilized by the ultimate consumer, but in the restraining influences it exercises over the producer and the direct obligation placed upon him in his relation to the regulatory agencies of the State and Federal Government.'

(*) Daily News Record, New York, New York, 10-28-35.

> "When the ultimate consumer is willing to pay the premium for quality insurance, just as he does his life, fire or automobile insurance, he will obtain the protection willingly and readily.
>
> " 'He must be educated to the value of quality insurance', Dr. Douty declared."

As indicating the great amount of work necessary to bring about the establishment of standards, the following is noted: (*)

> "Discussing the progress made to date in the movement to establish commercial standards for women's dress fabrics, in testing, reporting and rating for service-ability, William D. Appel, Chief of the Textile Section of the U. S. Bureau of Standards, in a brief address delivered before the October meeting of the New York section of the American Association of Textile Chemists and Colorists at the Chemists' Club on Friday night, stated that 25 sub-committees of the various scientific and lay bodies involved in the work were contributing their services in the effort to arrive at mutually satisfactory standards, but that 'some weaknesses had been indicated and the need for much more work emphasized.' "

Much work is being done by the various groups making up the different branches of the Industry looking toward the standardization of their particular operations. It is also interesting to note that the United States Bureau of Standards is cooperating with various groups of manufacturers, distributors, and consumers, looking toward the standardization of size, measurements, shrinkage, color-fastness, and other criteria indicating quality of garments and other apparel. It is therefore reasonable to expect that at least some standards will be adopted by the Industry.

(*) Daily News Record, New York, New York, October 28, 1935.

CHAPTER III

PRE-CODE PROBLEMS OF THE INDUSTRY AND WRITING OF THE CODE

I. PRE-CODE PROBLEMS OF THE INDUSTRY

A. Decline in Value of Industry Product.

In 1923 the value of men's, youths' and boys' clothing produced in the United States amounted to more than a billion dollars. (*) Since then there has been a consistent decline in value of output, until the estimated value of production for each of the years 1933 and 1934 approximated $450,000,000. (**)

B. Productive Capacity of Industry.

"America's Capacity to Produce", published by Brookings Institution, quotes a correspondent to the effect that in 1929 the Men's Clothing Industry worked 30 to 36 full weeks out of 52. The analysis made of reasons for the slack period is: 60 per cent due to seasonal variation, and 40 per cent due to lack of business. This publication gives an operating ratio (men's and women's clothing industries combined) of: 63 per cent, not adjusting for seasonal variations, and 85 per cent, adjusting for seasonal variation. The 1923 Census places the operating ratio for the Industry at 73 per cent.

The Brookings' study estimates that the per cent of practical capacity utilized in the Men's Clothing Industry was 78 per cent for the period 1925-1929, and 76 per cent for 1929.

C. Employment and Hours (***)

The Men's Clothing Industry, which is fairly well unionized, maintains two practices with respect to work. First, there is generally practiced an equal division of work in factories. Second, factories having contractual relations with unions usually provide for tenure of employment. That is, a worker is usually permanently attached to a factory, after a probationary period, and may not be discharged except for cause. Because of these rules and due to the highly-seasonal character of the Industry, an estimate of employment must be based on the average number employed.

(*) Bulletin of United States Bureau of Labor Statistics, No. 557, page 33ff.

(**) Letter dated January 18, 1935, from George L. Bell, Executive Director, Men's Clothing Code Authority, to Deputy Administrator. (Men's Clothing Code Files.)

(***) Extracts from Affidavit of V. S. von Szeliski on Men's Clothing Industry, September 21, 1934. Bases on comprehensive and fully-authenticated study by Morris Kolchin. (Both in Men's Clothing Code Files.)

In 1923, the highest number of workers employed by the Industry was 168,771. From 1923 until 1929, the Industry employed fewer workers although the physical output was increasing. There were 147,596 workers employed in 1925 and 153,550 in 1927. Although the United States Census of Manufactures reports 12,926 fewer employed in 1929 than in 1923, some of this number probably remained attached to the Industry. Therefore, it is reasonable to assume that half of the unemployed between 1923 and 1929; that is, 6,463; remained attached to the Industry in addition to the 155,845 reported to be employed at the height of the 1929 season, thus indicating an available labor force of 162,308. Since few workers are likely to have left the Industry since 1929, it appears that the number of workers attached to the Industry in 1933 amounted to around 160,000. Also, since the greatest number employed in any one month of 1933 was 111,745 for February, the probable excess supply of labor unemployed (prior to the N.R.A.) in 1933 was around 48,000. (*)

It is generally agreed that the above estimate of totally unemployed in the Industry for 1933 is conservative because of the very significant migratory movement taking place in the Industry during the period in question. Plants moved or were discontinued in the large industrial centers and became established in rural areas. Workers often did not follow the plants but remained idle while new workers were being trained and employed. It was estimated that 12,926 fewer workers were employed in 1929 than in 1923. In New York alone the number of employed declined 9,150. The total reported unemployed for New York and Chicago exceeded the indicated national total, hence it is obvious that the estimate of 160,000 attached to the Industry in 1933 is small. There are not enough data respecting the effect of plant migration on employment to make a close approximation.

It must be observed, of course, that the depression years not only resulted in less employment but also in less work for the employed. The Bureau of Labor Statistics reported more factories idle in 1932 than in 1929. "The operating factories showed a greater degree of under-employment in 1932 than in normal years. In 1928 there were only 2.2 per cent of the workers who had less than 20 hours of work during the sample week and in 1932 almost four times as many, 8.7 per cent."

D. Wages. (**)

The wages of clothing workers for several years prior to the Code had been affected by the actual decline in wages and the decrease in employment. "The actual hours of work declined 10 per cent from 1922 to 1932, thus affording less earnings even if the hourly rates had remained the same. But the hourly earnings have also declined. In 1922 the average hourly earnings were 72.8 cents and in 1932 only 50.6 cent."

(*) Author's Note: This estimated was based upon B.L.S. figures for the first five months of 1933. Census figures now available show an average employment for 1933 of 119,253, the highest month being September with an employment of 131,648.

(**) Extracts from Affidavit of V. S. von Szeliski on Men's Clothing Industry, September 21, 1934. Men's Clothing Code Files.)

Average annual earnings were thus unquestionably affected.

"The downward movement of the earnings of the clothing workers outstripped all industries. It has been continuous since 1923, so that even in the prosperous years the purchasing power of the workers was diminishing; with a decrease of 11 per cent in value of product from 1923 to 1929 the payroll decreased 13 per cent. The average annual earnings during this period declined about 9 per cent. In 1923 the wages of the clothing workers were higher than the wages in all other industries combined, but in 1931 they were 15 per cent lower."

A comparison of the movement of wages in this Industry with the cost of living, also shows up to the disadvantage of the wage earner. "During the ten-year period, 1923-1933, wages declined 45 per cent, whereas the cost of living declined only 25 per cent. Thus the index of earnings of the clothing workers in 1932, in terms of cost of living dollars, was about 80."

E. Extent of Unionization.

One group in the Men's Clothing Industry, located principally in the urban "centralized" areas is almost entirely unionized, having working agreements with the Amalgamated Clothing Workers of America. The other group, located mainly in the small cities and country areas, the "decentralized" areas, operate for the most part under working agreements with the United Garment Workers of America. To the last-named group belong a number of unorganized independent manufacturers who operate open shops. (*) Mr. Sidney Hillman, President of the Amalgamated Clothing Workers, at the public hearing of July 26, 1933, testified that the Industry was 80 per cent organized. As is pointed out in Chapter IV, Code Administration--Organization and Procedure, the importance of union influence in this Industry is recognized by the extent of representation on the Men's Clothing Code Authority.

F. Home Work.

All proponents of codes for the Men's Clothing Industry united in a common understanding that the practice of home work was vicious and demoralizing and should go. Mr. F. M. Curlee, of the Industrial Recovery Association, stated in the July 26-27, 1933 hearing that "...both sides condemn this practice--all agree that it should be utterly stamped out at the earliest possible time. The practice lends itself to evasions and abuses, and is destructive of the reforms contemplated by the Industrial Recovery Act."

> "At the request of the Division of Research and Planning of the N.R.A., the Men's Clothing Code Authority in August, 1934, collected data with respect to the home work situation in the Men's Clothing Industry, before September 11, 1933, the date the Code became effective, and after its enactment. The clothing markets of Rochester, Philadelphia, and New York are

(*) "Statement - Industrial Recovery Association of Clothing Manufacturers," February 2, 1935, page 2. (Men's Clothing Code Files.)

represented in the data presented, which, while not complete, are accurate so far as they go.

"In April, 1933, which was prior to the effective date of the Code, there were 7,310 home workers employed in the clothing markets mentioned. In August, 1933, there were 2,381 home workers in the same markets; and in April, 1934, the amount of home work done was nil." (*)

G. Profit Margins.

Professor Nerlove's study of pre-Code conditions in the Men's Clothing Industry concluded with respect to profit margins in the Industry that: (**)

"Treasury Department figures show the narrowness of these profit-margins even in prosperous years. In 1927 net income of corporations in the Men's Clothing Industry was about 2.3 per cent of gross income; in 1928, it was approximately 3 per cent; and in 1929, it was about 2.8 per cent. In view of the relatively high capital turnover of this Industry, these figures indicate that on the average the return on invested capital of corporations in this Industry was only between 5 per cent and 6 per cnet at the peack of industrial activity and national income, 1927 to 1929."

"Both the number and the size of failures during these peak years were large. Dun's figures show that failures measured in liabilities of 'clothing and millinery firms' were approximately from 4 per cent to 6 per cent of the total number of failures measured in liabilities of all manufacturing concerns during this period, 1927 to 1929, whereas the value of product of this Industry was only 1½ per cent of the value of product of all manufacturing industries in 1929."

While the Men's Clothing Industry generally has been more stable from the standpoint of maintenance of investment and return on capital than the women's wear field, infinitely more sensitive to changing styles, it would appear that for various causes capital began a systematic decline in 1930, which continued until the fall of 1933 when the Industry was codified under the NRA. (***)

(*) Statement prepared by the Code Authority for the Men's Clothing Industry, as a "Memorandum regarding Homework," April 30, 1935.

(**) Statistical and Economic Analysis Related to Sections II and V of "Code of Fair Competition for the Men's Clothing Industry"--Clothing Manufacturers Association of the United States of America, (Men's Clothing Code Files.)

(***) Remainder of this discussion of Profit Margins adapted from survey of A. A. Fisher. See explanatory note on page 59.

In anticipation of effective date of Codes, and expected rise in the price of raw materials, particularly woolens, in the Spring of 1933 there developed a scramble of manufacturers to cover their anticipated requirements for the fall season. Those manufacturers with sufficient capital, or credit, in April placed substantial orders with the distributors of piece goods against the trend of rising wool costs and tied up an unusual amount of capital in inventory. The usual practice theretofore had been to buy fifty per cent of the estimated requirements in April for June and July delivery, and subsequently place fill-in orders as required. Those manufacturers, however, who in April, 1933, placed orders for woolens for one hundred per cent of their season's requirements for payment within sixty days, or sixty extra for those with larger capital, showed a satisfactory profit for the year 1933. This was due to the steadily rising price of woolens which enabled the manufacturer, thus covered, to reap the advantage of a larger mark-up. The advantage, however, was relatively shortlived, for it built a substantial inventory at the end of 1933 which in 1934 had to be sold at falling prices. During this period an advantage ultimately occurred to the manufacturer with limited capital who had been unable to acquire his full season's requirements at the lower cost of woolens. He had been compelled, perforce, to buy in accordance with the former practice of making commitments in April not in excess of fifty per cent of his requirements, and, as the season progressed, paid the higher prices for woolens required during the balance of the season. The result was that while he did not make as much money as his larger competitor in 1933, his mark-downs in 1934 were materially less. The small manufacturer who had stretched his credit to cover his total requirements in the Spring of 1933 lost money when the volume of sales fell off in the latter months of that year, for he had to slash prices to rid himself of excess inventory in order to avoid financial disaster. The manufacturer with more substantial capital was affected by the same conditions but was better able to absorb his losses through a carry-over of merchandise into 1934 and, with increasing demand, reduced his losses or showed a small profit in that year. Thus, generally speaking, the small manufacturer with a capital of from $25,000 to $50,000, if careful in his purchases, made a little profit in 1933; the medium-sized concern with a capital of from $50,000 to 100,000, which covered merchandise requirements one hundred per cent in April, sustained a net loss for the year; while the larger concerns, with capital in excess of $100,00 were, with some exceptions, able to show a net profit at the year-end.

Partial confirmation of the stated results may be obtained by analysis of the breakdown of operating figures of 243 manufacturers. (*) Of 62 concerns operating with a capital less than $25,000, 49, or 79.03%, reported an average net profit of 2.91%, the remaining 13, for one cause or another, showing an average net loss in 1933 of 2.99%. Where capital of $25,000 and up was employed, 167 concerns, or 92.27%, reported an average net profit of 2.53%, while 14 others averaged a net loss of 1.05%. (**)

(*) See Tables XVI and XVII.
(**) See Table XIX.

A further breakdown of the entire group indicated varying results in 1933, as follows: (*)

Net Worth -	Up to $25,000	$25,000 to $49,000	$50,000 to $74,000	$75,000 and up	Total
No. of Cases -	62	98	41	42	243
Ave. Net Worth	$15,935	$35,510	$61,780	$154,429	$55,502
Ave. Net Profit	2.08%	2.26%	1.97%	2.57%	2.34%
No. Concerns Showing Profit	49	89	39	39	216
% of Concerns Showing Profit	79.03%	90.83%	95.12%	92.86%	88.89%

In considering 1933 operating figures, it should be kept in mind that the relatively favorable showing of high percentages of concerns reporting profits, however small, had these profits invested in year-end inventories, the losses on which were taken in 1934. The picture is better visualized from a study of three years' comparable results of 229 identical manufacturers whose year-end statements submitted to the National Credit Office are summarized in the following composite review:(**)

Net Worth End of Year	1932 $14,026,270	1933 $15,089,441	1934 $15,645,815
No. of Concerns	229	229	229
Net Profit--Total	-$1,439,009	$1,393,995	$791,546
Rate of Return	-10.3% (Loss)	9.2%	5.1%
% of Profit on Sales	-3.5% (Loss)	2.7%	1.3%
% of Concerns Showing Profit	37.6%	90.4%	78.2%
% of Concerns Showing Loss	62.4%	9.6%	21.8%

That losses of recent years in the clothing industry have not been confined to the small or medium size manufacturer, but have been a heavy drain on most large and well-financed organizations, is evident from an examination of published figures of several large operators of "inside" shops.

The accompanying tabulation of profit and loss figures of three of the largest and best known manufacturing-wholesalers in Chicago eloquently

(*) See Table XVI.
(**) See Table XV.

testifies to the loss trend in the Industry, which began to manifest itself in 1930. (*)

That there are outstanding exceptions to the loss record, without belying the indicated trend of diminishing profits, is evidenced by the record of annual net profits of one of the largest manufacturers--Richmond Bros. Company, in Cleveland, Ohio--(**) which operates also a chain of retail shops, necessitating an investment of over $3,000,000 in fixed assets.

II. WRITING OF THE CODE

On August 26, 1935, the President, upon recommendation of the Administrator, approved a Code of Fair Competition for the Men's Clothing Industry. The provisions of this Code as approved are summarized as follows:

Section I defines the term "Clothing Industry."

Section II provides a minimum wage of 40 cents per hour in the northern section of the Industry, and 37 cents per hour in the southern section. Subsections a, b, c, d, e, and f provide for the safeguarding of differentials above the minimum, prevent increases in amount of work to avoid benefits to employees, and authorizes the Code Authority to appoint a committee to supervise execution of the wage provisions.

Section III abolishes home work.

Section IV establishes a 36-hour week for manufacturing employees and a 40-hour week for non-manufacturing employees and provides for overtime in the subdivision of the Industry known as "tailoring-to-the-trade" and uniform manufacturers.

Section V provides for the use of an N.R.A. label to be attached to all garments manufactured under the Code.

Section VI forbids employment of any person under sixteen years of age.

Section VII provides for compliance with conditions of sanitation, etc., as specified in factory laws of the respective states.

Section VIII provides for collection and publication by the Code Authority of certain information.

Section IX authorizes the Code Authority to aid in making equitable adjustments in respect to contracts entered into before the adoption of the Code.

Sections X and XI provide against selling below cost.

(*) See Table XLVI.
(**) See Table XLVI.

TABLE XLVI

Net Profit or Loss after all charges /a of 3 large Chicago Manufacturers of Men's Clothing.

	Hart, Schaffner & Marx	B. Kuppenheimer & Company, Inc.	Alfred Decker & Cohn, Inc.
1935	$ 273,824		
1934	d 668,259	d $ 25,735	d $ 182,570
1933	#d 2,238,667	d 222,121	d 122,158
1932	d 3,915,729	d 776,980	+d 877,182
1931	d 2,994,580	d 138,314	ǂd 474,103
1930	x 504,142	378,970	d 268,181
1929	2,514,676	641,013	302,924
1928	2,583,798	614,892	249,672

d - Net Loss

- Including $1,555,012 in respect of capital assests, etc., written off by subsidiaries liquidated during year and provision for anticipated losses on capital assets, etc., of subsidiaries to be liquidated.

x - After $1,000,000 reserve against investments.

+ - Before $213,061 write-off of investments and advances. Additional reserves therefor and other charges and $150,000 contingency reserve, both charged to surplus.

ǂ - Before $378,538 extraordinary charges carried to surplus.

/a - Figures published by Fairchild's Financial Manual issued May, 1935, pages 26 and 27.

Net Profits
Richmond Bros. Co., Cleveland, Ohio /b

1934	$1,820,574	1930	$3,085,216
1933	1,719,551	1929	4,208,037
1932	1,460,379	1928	3,571,146
1931	2,025,639		

/b - Figures published by Fairchild's Financial Manual issued May, 1935, page 29.

Section XII prohibits sales on "consignment" and the practice of "cut, make, and trim."

Section XIII provides for the establishment of a Code Authority and confers upon it certain powers.

Section XIV incorporates the mandatory provision of Section 7 (a) of the Act.

Section XV states the President's rights to cancel or amend any provision of the Code.

Section XVI provides that the National Association of Uniform Manufacturers shall be given administrative powers in respect to uniform apparel.

Section XVII provides for the eliminating or changing of codal provisions, with the approval of the President, should circumstances or experience indicate the need.

The Men's Clothing Code was adopted after public hearings before Deputy Administrator Lindsay Rogers, and after numerous and prolonged conferences between two groups well-organized but divergent in interests. The history of the pre-Code conferences and the issues drawn between the proponents of two separate codes for the Industry is well set forth by Deputy Rogers in his report on the Code. The following extracts from this report should serve our immediate purposes, although the entire report is bound with the printed copy of the approved Code:

> "For this industry two codes were submitted. One was presented by the Clothing Manufacturers Association of the United States of America, and one by the Industrial Recovery Association of Clothing Manufacturers. On July 19, 1933, the codes were published as submitted to the Administrator. Public hearings were held on July 26 and 27. Numerous conferences then took place between the interested parties and the Administrator and on August 17, 1933, a code drastically revised by the Clothing Manufacturers Association was resubmitted to the Administrator and published. This code is now recommended for approval. The delay resulted from the fact that there were material differences between the two codes in respect of the protection above the minimum which was to be afforded to semiskilled and skilled workers and in respect of the administrative machinery to carry out the provisions of the code.
>
> "A fundamental difference in the points of view of the two Associations appeared in respect of Section VII (a). The code submitted by the Clothing Manufacturers Association did no more than quote the mandatory provisions of the National Industrial Recovery Act. On the other hand, the Industrial Recovery Association proposed the addition to Section VII (a) of the following language: 'Employees not members of a

labor union shall be free from interference, restraint, or coercion by any labor union, its members or agents. Employers and employees may bargain individually or collectively as may be mutually satisfactory to them.' The fact that this Code sought in effect to interpret and possible amend an Act of Congress discloses the principal reason why two codes were presented by the two associations in the Men's Clothing Industry. One association--the Clothing Manufacturers Association--is composed largely of union manufacturers. The Industrial Recovery Association is composed of non-union manufacturers. Immediately after the passage of the National Industrial Recovery Act there had been negotiations between the two associations looking to agreement on a single code but the negotiations had failed and in the hearings the associations were arrayed against each other.

"There is no difference between the kinds of clothing made by the manufacturers in the two associations. From testimony at the hearings it would appear that the Clothing Manufacturers Association represents between sixty-five per cent (65%) and seventy-five per cent (75%) of the industry. The testimony, however, failed to disclose any valid ground on which it might be concluded that the minority association represented a subdivision of an industry within the meaning of the National Industrial Recovery Act (Section 3 (a)).

"The real cleavage--which appeared clearly in the hearings--resulted from the fact that the Amalgamated Clothing Workers of America have collective agreements with the bulk of the employers in the Clothing Manufacturers Association, while the bulk of the employers in the Industrial Recovery Association are non-union. It seems clear, however, that because a union has been recognized by one group of employers and has not been recognized by another group of employers is no valid reason for dividing an industry into two parts. There must be one code for the industry and one agency to administer this code. The administrative agency must be absolutely neutral in respect of the cleavage referred to and must show a proper regard for the fact that administration in the large centers--particularly in respect of the manufacturer-contractor system--presents problems different from the problems of administration in other sections of the country where manufacturing is direct and where labor may be less skilled. Neither of the two groups--between which, as has been said, save for labor relations, only artificial divergencies of interest exist--should be in a position to dictate to the other group.

"After the conclusion of the hearings, there were a number of conferences between representatives of the two associations. It appeared, however, that no matter how extended the conferences became, it would not be possible for the two associations to agree on a single code. The Industrial

Recovery Association withdrew its proposed additions to Section VII (a), but on wages above the minimum and on administrative machinery its representatives were adamant. Indeed, they were compelled to be adamant because they did not have sufficient authority from the membership of their Association freely to negotiate. Under its by-laws, moreover, the Industrial Recovery Association refused admission to manufacturers who had collective agreements with the Amalgamated Clothing Workers of America and this it was argued was an 'inequitable restriction on admission to membership' within the meaning of the National Industrial Recovery Act (Section 3 (a)).

"In view of these circumstances, the wise course appeared to be for the Clothing Manufacturers Association to revise its code on the basis of the considerations adduced at the hearings and at subsequent conferences with representatives of the Industrial Recovery Association. Such a revised code would be resubmitted to the Administrator. Discussions with labor representatives on wages and hours would take place and the Industrial Recovery Association's members would be invited to give their approval to the new code as submitted and recommended. This procedure was followed. The revisions and drafting were greatly aided by representatives of important neutral factors in the industry, that is, factors which did not belong to either of the proposing associations. The revised code was resubmitted and published on August 19, 1935, and is herewith recommended for executive approval."

With respect to the controversies over proposed codal provisions, further attention is now called to certain outstanding differences between the Industrial Recovery Association and the Clothing Manufacturers Association not elaborated upon in the extracts from Deputy Rogers' report, although certain of these issues will be discussed more fully in sections of this Study where appropriate.

The Industrial Recovery Association agreed to withdraw its proposed addition to the mandatory Section 7 (a) on the grounds that such addition was 'merely interpretive' and therefore unnecessary.

Regarding the scale of wages above the minimum, the Industrial Recovery Association would not yield beyond its recommended provisions that there be a minimum increase of 20 per cent in earnings of each class of workers but to apply only to employees earning $70.00 a week or less for full time employment prior to July 1, 1933, and that no other wage rates than the lowest minimum (to be determined by the Administrator) be prescribed in the Code. The Clothing Manufacturers Association, on the other hand, had insisted that the Code provide a minimum for one of the advanced wage groups (cutters--at the rate of 80¢ per hour), and that "the existing amounts by which wages in the higher-priced classes, up to workers receiving $30 per week, exceed wages in the lowest paid classes, shall be maintained." This difference of opinion was irreconcilable and was resolved only through Administrative action. This controversy is emphasized inasmuch as the views expressed here explain in great measure the controversies which have developed respecting enforcement

of wage provisions of the Code.

In the matter of an agency to administer the Code, the Industrial Recovery Association insisted to the last upon equal rights with the opposing Association. Even after the establishment of the Code, the Industrial Recovery Association addressed a letter to its membership advising compliance with the Code but stating that such compliance is "not to be construed as an admission that the Clothing Manufacturers Association of the United States of America, the applicant for said Code, imposes no inequitable restriction on admission to membership therein or is truly representative of the clothing industry of the United States..." Further consideration will be given this controversy in connection with Chapter IV--"Code Administration--Organization and Procedure."

The Clothing Manufacturers Association had proposed the mandatory use of labels with power of withdrawal given to the administrative agency of the Code. This provision was protested by the Industrial Recovery Association as giving, unjustifiably, "the power of life and death over any institution."

A. Problems of the Industry Not Covered by the Code.

1. Trade Practices

Both Codes originally proposed for the Men's Clothing Industry made some provision for the setting up of fair trade practices, especially with regard to sales terms and conditions, contracts, cancellations, and returns. There is little evidence but that the opposing groups could have agreed upon provisions covering these subjects; however, no provisions were adopted and the reasons therefor are set forth in detail in the discussion of fair trade practices. At the moment, it should be recalled that proponents of the Code showed an inclination and willingness to consult with industries which might be concerned before proposing definite trade practices. The Clothing Industry as a whole was anxious to get a code and there appeared no general insistence upon the working out of complete details relative thereto prior to formal adoption of a code. This attitude is evidenced by the provision in Article XVI that the National Association of Uniform Manufacturers "shall make recommendations to the Administrator in respect of the trade practices desirable for this branch of the Industry."

2. Apprentices.

As will be pointed out in connection with the labor provisions of the Code discussed in Chapter V, there was evidenced within the Men's Clothing Industry a considerable demand for apprenticeship provisions. The Code as adopted made no provisions for learners. The Industrial Recovery Association urged that a certain latitude in the wage provisions be allowed in favor of beginners. This group reasoned that outside of the congested centers of population women are largely employed and that during the depression years the supply of workers is depleted by marriage, death, and other causes, and that "with a return of recovery a large number of new recruits would be required." (*) The opposing group argued

(*) Statement of Industrial Recovery Association of Clothing Manufacturers, February 2, 1935, Page 10.

that the large reservoir of unemployed in the urban centers be absorbed before concessions be made for learners. The Administration concurred in the latter view. There yet remains, however, the criticism that such a discrimination against the establishment of plants in rural areas.

3. Differences in Industrial Technique.

Doubtless the last-discussed problem, not solved by the Code, was only one aspect of the larger problem of the Industry which was manifested by the antagonistic views expressed by the two opposing groups in this Industry. The minority group in the Industry continued to insist most vigorously that fundamental technological and economic facts divided the Industry into opposing camps to which the Code gave little consideration. This minority group, when confronted with the possibility of additional classified wage scales in the Code, protested bitterly on the grounds that this would work a hardship because of the nature of production in the decentralized areas. It was explained that "by necessity, due to lack of trained help, the manufacturing operations are divided and subdivided so that any unskilled person is able to perform after proper training, one minor operation; but such an employee had no facility or skill in performing other operations. In short, an operator in a centralized market, like New York, can handle with equal facility almost any tailoring job in a clothing plant. On the other hand, an operator in the decentralized markets is unemployable, except at his own operation." (*)

Note:

The above assertion respecting differences between two types of production in the Industry, if true, doubtless should have been given adequate consideration in the drafting of provisions respecting the entire Industry. It should be noted that no evidence as to this matter exists in the Administration's files aside from bare assertions made by interested parties to the controversy.

(*) Extract from Brief presented on behalf of the Bloch Co. against proposed amendments to the Men's Clothing Code, February 15, 1935. (Men's Clothing Code Files.)

CHAPTER IV

CODE ADMINISTRATION--ORGANIZATION AND PROCEDURE (*)

1. MEMBERSHIP OF CODE AUTHORITY

The Men's Clothing Code provided as follows for the establishment and organization of a Code Authority:

> "A board known as The Men's Clothing Code Authority shall be established, and for the purpose of effecting membership therein representative of the entire industry, such Board shall be constituted as follows:
>
> "Ten (10) members representative of members of The Clothing Manufacturers Association of The United States of America, and
>
> "Five (5) members representative of employers in the Clothing Industry who are not members of The Clothing Manufacturers Association of the United States of America, shall be appointed by this Association.
>
> "Two (2) members representative of other employers may be chosen by the foregoing members.
>
> "Five (5) members representative of labor shall be appointed by the Administrator on nomination by the Labor Advisory Board.
>
> "One (1) member may be appointed by the Administrator."

The above codal provisions were adopted after considerable controversy between the Industrial Recovery Association and the Clothing Manufacturers Association, and were largely the result of Administrative determination. The code presented by the Industrial Recovery Association recommended an Administrative and Advisory Agency, such Agency to consist of five members to be elected by the Industrial Recovery Association, and five members to be elected by the Clothing Manufacturers Association, and one member to be appointed by the National Industrial Recovery Administrator. The last-named member was to have no vote except in case of tie and was to act as chairman of the Agency. (**)

To carry out the provisions of the Code, the Clothing Manufacturers

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(*) For a list of Division Administrators, Deputy Administrators, Assistant Deputy Administrators, and Aides, who served in connection with this Code, see Appendix B.

(**) Printed copy of codes recommended by Industrial Recovery Association and Clothing Manufacturers Association (Men's Clothing Code Files.)

Association recommended the establishment of a Planning and Fair Practice Agency, to consist of the Executive Committee of the Clothing Manufacturers Association and that three members appointed by the Administrator should have no vote. (*)

With respect to the recommendations for establishment of a governing body in the Men's Clothing Industry, Deputy Administrator Lindsay Rogers, in recommending the Code to the President, states:

> "When the codes were submitted to the Administrator, administration by a trade association was contemplated. The device of administration by a Code Authority had not yet evolved. The Code as recommended provides for a Code Authority, but with proper representation for divergent interests in the industry on a basis which will be discussed later in this report, and which it is believed will quiet the fears of the Industrial Recovery Association." (**)

The basis of representation contemplated and understood by Deputy Administrator Rogers, but not elaborated in the final codal provisions, is set forth more definitely in the latter part of his report to the President under the heading "Constitution of Code Authority." It is explained that:

> "Five (5) members of the Code Authority are to be selected by the Clothing Manufacturers Association to represent manufacturers who are not members of that Association, i.e., the manufacturers who are members of the Industrial Recovery Association. These five (5) representatives will, it is believed, be more than the Industrial Recovery Association is entitled to under the basis of the number of workers its members employ or the total annual value of production. Designation of these representatives by the Clothing Manufacturers Association will, it is anticipated, put the responsibility on that Association to give the fairest kind of representation to the part of the industry which is not within its membership."

The question of representation on the Men's Clothing Code Authority was not settled to the satisfaction of either the Administration or the industry. Although the codal provisions do not expressly require the appointment of members of the Industrial Recovery Association to the Code Authority, the members of the Code Authority representing the Clothing Manufacturers Association have repeatedly invited leading members of the Industrial Recovery Association to assume membership, but only two accepted.

(*) Printed copy of codes recommended by Industrial Recovery Association and Clothing Manufacturers Association. (Men's Clothing Code Files.)

(**) Printed Code No. 15, Page 11.

Officials of the Men's Clothing Code Authority, in explanation of the lack of representation of the Industrial Recovery Association on the Code Authority have called attention to the fact that Mr. Mark W. Cresap, President of the Clothing Manufacturers Association of the United States, addressed a letter under date of August 18, 1933, to all members of the Industrial Recovery Association requesting nominations for membership on the Code Authority. Upon receiving few responses to this invitation, it is asserted that Mr. Cresap "did the next best thing" by selecting for personal invitation representatives from the Industrial Recovery Association whom its membership had chosen for officials, with one exception.

The men representative of the Industrial Recovery Association who were given personal invitation to serve on the Code Authority were S. H. Curlee, L. L. Grief, Sol Heuman, J. Schoeneman, and George Henry. "Messrs. Heuman and Henry accepted the invitation, joined the Code Authority....The other three men, Messrs. Curlee, Greif, and Schoeneman, refused the invitation." (*)

The Administration on the other hand, without questioning the conduct of the membership of the Code Authority as originally constituted, granted tentative recognition to that Code Authority with the understanding of the need and intention of a future remodeling of the provisions for membership and representation.

A. Formal Recognition and Establishment of Code Authority.

In accordance with codal provisions, on November 27, 1933, Administrator Hugh S. Johnson appointed B. H. Gitchell, formerly Deputy Administrator in the Apparel Section of the N.R.A., to the place of Administration Member on the Code Authority. Mr. Gitchell served in this capacity until March 11, 1935, at which time he resigned, giving the reason that the responsibilities as Chairman of the Dress Code Authority made it difficult to devote time required of the Administration Member. (**) Even a year earlier on March 2, 1934, we find the Code Authority submitting a resolution to the Administration expressing satisfaction with the representative of the Administration, but pointing out that his burdensome duties and assignments had retarded "the securing of prompt and decisive action from the National Recovery Administration." (***)

It is noted from minutes of the Code Authority's first meeting

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(*) Memorandum--"Organization, Character, and Method of Selection of the Code Authority" (Men's Clothing Files)

(**) Letter dated March 3, 1935, to M. D. Vincent, Deputy Administrator. (Men's Clothing Code Files.)

(***) Bound Copy of Resolutions, March 2, 1934, Directed to Conference of Code Authorities. (Men's Clothing Code Files.)

that Deputy Administrator Lindsay Rogers attended as Administration Member.

1. Recognition of Labor Members.

Aside from the official appointment of the Administration Member on November 27, 1933, no formal recognition was accorded any member of the Code Authority until July 6, 1934, when by Administrative Order five representatives of labor who had been serving on the Code Authority, apparently since its inception early in September, 1933, were given approval. The omission of this act of formal recognition had been called to the attention of the Deputy administering the Code by the Labor Advisory Board. The labor representatives approved as members of the Code Authority were as follows: (*)

Sidney Hillman, President, Amalgamated Clothing Workers of America.
Hyman Blumberg, Amalgamated Clothing Workers of America, New York City.
Samuel Levine, Chicago Joint Board, Amalgamated Clothing Workers of America.
Thomas A. Rickert, United Garment Workers of America, New York City.
Abraham Gordon, United Garment Workers of America, New York City.

It is noted that Mr. Abraham Gordon, of the United Garment Workers, succeeded, on approval of the Labor Advisory Board, Mr. J. L. Wines, about June 15, 1934. Mr. Wines, a former executive of the United Garment Workers, had served on the Code Authority from September, 1933, until his death about June, 1934.

2. Recognition of Industry Members.

Despite formal approval of labor representatives on the Men's Clothing Code Authority on July 6, 1934, the recognition of Industry members was not acted upon until October 19, 1934, through Administrative Order No. 15-36. In recognizing fifteen industry members and in approving their method of election it was stipulated (not in Order 15-36) that a plan of reorganization be submitted to the Administration within forty-five days. (**)

The Code Authority gave consideration to this request and on November 3, 1934, by unanimous resolution asked that membership and

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(*) Administrative Order No. 15-16, appointing Labor Representatives to Code Authority, dated July 6, 1934.

(**) Letter dated November 16, 1934, from George L. Bell, Executive Director, Men's Clothing Code Authority, to M. D. Vincent, Deputy Administrator. (Men's Clothing Code Files.)

method of selection be extended until June 16, 1935. (*) The reason given for this requested extension was that the Act would probably be revised and amended and that changes would likely have a bearing on the question of membership of Code Authorities; hence, it was not felt advisable to take a definite stand prior to such revision. Upon this request of the Code Authority, S. H. Ourbacker, Assistant Deputy Administrator, recommended to Prentiss L. Coonley, Acting Division Administrator, that the membership of the Code Authority be extended to June 16, 1935, at the same time making the following comments relative thereto: (**)

> "This particular Code Authority has performed its functions admirably, and there have been no objections to the method of their selection or any of the Code Authority members brought to the attention of the Administration. The men making up this Code Authority are all representative of the industry, coming from various important markets."

In turn, Mr. Coonley in memorandum of November 5, 1934, advised Blackwell Smith, Chief Counsel of N.R.A., that: (***)

> "The Men's Clothing Code Authority has been functioning as a de facto Code Authority for many months. There has not been a single protest from any Industry Member regarding the personnel of the Code Authority Membership as constituted, and, from an administrative point of view, the present constituted Code Authority has functioned smoothly and well."
>
> "I believe that as a practical matter the Code Authority should be recognized as such, pending election of a new Code Authority in accordance with plans now being formulated and before the Administration. Failure to grant this recognition can only result in decreased confidence in the Code Authority and would necessarily be reflected in added difficulties in Compliance."

In compliance with the Code Authority's request and in line with the above-quoted recommendation, Administrative Order No. 15-44 was promulgated, recognizing the following-named persons, in addition to labor representatives and the Administration Member already approved, as constituting the Men's Clothing Code Authority up to June 16, 1935:

(*) Letter dated November 16, 1934, from George L. Bell, Executive Director, Men's Clothing Code Authority, to M. D. Vincent, Deputy Administrator. (Men's Clothing Code Files.)

(**) Memorandum dated December 12, 1934. (Men's Clothing Code Files.)

(***) Memorandum dated November 5, 1934. (Men's Clothing Code Files under Code Authority Members.)

Name	Affiliation	Address
Mark W. Cresap	Hart, Schaffner & Marx	Chicago, Ill.
Chas. D. Jaffee	Jaffee, Cohen & Lang, Inc.	New York, N. Y.
Maurice Gordon	Trimount Clothing Co., Inc.	Boston, Mass
Benjamin J. Lebow	Lebow Bros.	Baltimore, Md.
Bertram J. Cahn	B. Kuppenheimer Co., Inc.	Chicago, Ill.
Max L. Holtz	Louis Holtz & Sons, Inc.	Rochester, N. Y.
Raymond H. Reiss	International Tailoring Co.	New York, N. Y.
Victor S. Riesenfeld	Cohen, Goldman & Co.	New York, N. Y.
Sol Heumann	Keller, Heumann, Thomoson Co.	Rochester, N. Y.
Frank C. Lewman	Richman Brothers	Cleveland, Ohio.
George Henry	H. A. Seinsheimer & Co.	Cincinnati, Ohio.
Elmer L. Ward	Goodall Co.	Knoxville, Tenn.
Louis A. Hirsch	Hirsch, Weintraub & Co.	Philadelphia, Pa.
Rudolf Greef	Greater Clothing Contractors Association, Inc.	New York, N. Y.
Louis Sussman	The Middishade Co.	Philadelphia, Pa.

On January 2, 1935, George L. Bell, Executive Director of the Men's Clothing Code Authority, advised the Administration that Frank P. Zurn, of the Alcozander Co., Philadelphia, Pa., was designated successor to Mr. Sussman by the Chairman of the Code Authority on March 2, 1934. It was explained that Mr. Sussman had resigned and that Mr. Zurn was appointed in his place as a representative of the Clothing Manufacturers Association. This belated notice of appointment was duly acknowledged by the Administration and approved December 28, 1934, by Administrative Order No. 15-46. The acknowledgment of the appointment explains that the Code Authority's request to change the records to make the appointment stand as of March 2, 1934, could not be met "as the order approving this succession could not be made retroactive." (*)

In connection with Code Authority membership, it should be pointed out that the Code provision, "Two members representative of other employers may be chosen by the foregoing members--" was never put into effect. While the matter would appear to have been optional with the Code Authority, judging from the terminology of the provision, the Code Authority was asked by the Administration to take the question of electing two additional members under consideration. Administration Member B. H. Gitchell on June 14, 1934, advised Deputy Administrator M. D. Vincent that the question was considered "but it is being held in abeyance.....If boys' wash suits should be transferred from the Cotton Garment Code to the Men's Clothing Code, it would mean that additional representation would be required on the code. Just as soon as this matter is settled the representation on the Code Authority will be finally completed." (**)

(*) Letter dated January 7, 1935, from S. H. Ourbacker, Assistant Deputy Administrator, to George L. Bell, Exec. Dir., Men's Clothing Code Authority. (Men's Clothing Code Files.)

(**) Letter dated June 14, 1934, from B. H. Gitchell to Deputy Administrator M. D. Vincent. (Men's Clothing Code files.)

Approximately a year later, on May 14, 1935, the Executive Director of the Code Authority advised the Administration that action had been taken with respect to giving recognition on the Code Authority to single pants manufacturers. The Executive Director quotes from a decision of the Code Authority Executive Committee as follows: (*)

> "We are quoting below that portion of the summary of the minutes of that meeting having to do with the decisions of the Executive Committee on which we seek Administrative approval:
>
> "'The request of the National Boys' Pants Manufacturers Association, Inc., as transmitted by Mr. J. E. Brill, that this Association be granted representation on the Code Authority, was discussed. It was unanimously decided that the Executive Committee recommend to the Code Authority at its next meeting that an invitation be extended to Mr. I. Wolrich, President of the National Boys' Pants Manufacturers Association, Inc., to become a member of the Code Authority in his capacity as President of this Association, representing the single pants group.'"

There is no record of Administrative action upon the part of N.R.A. officials with respect to this contemplated addition to the membership of the Code Authority.

The question of tenure of membership on the Code Authority was the matter of some misunderstanding between the Code Authority and the Administration until temporarily settled by the Administrative Order granting extension of membership until June 16, 1935. On September 13, 1934, prior to approval of industry members, Deputy Administrator Dean G. Edwards wrote George L. Bell, Executive Director of the Code Authority, calling attention to the fact that terms of office had expired for ten members appointed by the Clothing Manufacturers Association September 6, 1933, to serve one year, and that a new election was in order. Deputy Administrator Edwards also advised that five other members had been appointed, two on September 6, 1933, two on November 8, 1933, and one on December 8, 1933, but for whom no terms of office were mentioned. It was requested that a new selection of all fifteen members be arranged "specifying the terms of office (not exceeding one year) and in accordance with Code provisions and the policy of the Administration that Code Authority members shall be truly representative of the industry." (**)

(*) Letter dated May 14, 1935 from Morris Greenberg, Executive Director, Men's Clothing Code Authority, to Walter E. Woodford, Jr., Assistant Deputy Administrator. (Men's Clothing Code Files, under Budgets and Assessments.)

(**) Letter dated September 13, 1934, from Deputy Administrator Dean G. Edwards, to George L. Bell, Executive Director of the Men's Clothing Code Authority. (Men's Clothing Code Files.)

In response to Deputy Administrator Edwards' request for a new election of industry members of the Code Authority, David Drechsler, Secretary of the Code Authority, on September 27, 1934, requested withdrawal of the certification of the list of members in which it was stated that the ten members were elected for a term of one year. (*) He explained that the Code placed no limitation on the term of office and that the suggestion of one year came up for discussion in connection with the writing of by-laws. That a one-year term of membership on the Code Authority had been definitely considered at one time is clear from a letter from Mr. Drechsler to the N.R.A. on April 3, 1934, in which he states:

> "By-laws are now being written, in which the term of office of each member of the Code Authority will be definitely fixed. Such term not to exceed one year from date of appointment." (**)

3. Propose Consumer Representation on Code Authority.

Although no codal provision relates thereto, the Men's Clothing Code Authority gave consideration to the recognition of a "consumer advisory member" of the Code Authority. The minutes of the March 2 and 3, 1934, meeting of the Code Authority report that an official of the Code Authority conferred with Mr. W. Jett Lauck of Washington, "recently designated as the Consumer Advisory Member of the Code Authority.". The question of compensation arose and the matter was referred to the Code Authority. Members of the Code Authority expressed doubt as to the wisdom of paying a Consumer Adviser from funds collected from the Industry. The services of Consumer Adviser were compared with those of a government official and it was agreed that the Government likely would refuse permission to pay a Consumer Adviser from Code Authority funds. "The matter was left open for further consideration," but the records do not disclose further action.

Certain Code Authority officials had previously expressed a keen interest in the possibility of consumer representation on the Code Authority. The following extract from a letter of the Chairman of the Code Authority is of particular significance in that it shows a willingness to admit the reasonableness of a consumer voice in the matter of contemplated price advances. The opinion of the Code Authority Chairman is indicated by the following quotation:

> "My attitude on consumer member of Code Authority is that we cannot submit amendment to Code without meeting of Code

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(*) Letter dated September 27, 1934, from David Drechsler, Secretary, Men's Clothing Code Authority, to Deputy Administrator Dean G. Edwards. (Men's Clothing Code Files.)

(**) Letter dated April 3, 1934, from David Drechsler to N.R.A. (Men's Clothing Code Files under Code Authority Members.)

Authority nor do I think it is province of chairman to name member. What I did have in mind was that pending later action by Code Authority we could suggest to General Johnson that consumer representative be designated to sit with us in Advisory capacity and later become member of Code Authority and this action taken quickly would show readiness of clothing industry to cooperate immediately on subject of price advances. I think it would be perfectly proper for us to suggest to General Johnson name of some conspicuous person truly representative of consumer interests but feel it would be mistake to suggest anyone engaged in manufacture or distribution of clothing as was done at time of our hearing.***" (*)

The office of Code Records reveals that by Administrative Order No. 15-39, dated December 6, 1934, Alexander Thomson was assigned to duty with the Men's Clothing Code Authority in the capacity of Special Representative of the Deputy. The files do not indicate the nature of the duties performed.

B. Code Authority Officials and General Organization

The principal executive offices of the Code Authority were those of Executive Director, Secretary and General Counsel, and Comptroller.

The Executive Director was charged with the general supervision of all activities of the Code Authority. He was responsible for contact with Washington on all affairs affecting the administration of the Code. This office was held until February, 1935, by George L. Bell. The announcement of Mr. Bell's selection for the position of Executive Director and the listing of his qualifications is found in the statement of Mr. David Drechsler before the Code Authority, December 8, 1933: (**)

"***The man chosen is George L. Bell. I found him acceptable to every one with whom I talked and I have talked to practically all of the members of the Code Authority. Mr. Bell is now with the Caterpillar Tractor Co. of Peoria. His background is all that could be asked for. He graduated from Harvard Law School in 1912. He practiced law in San Francisco for a few years. He became a member of the Housing and Immigration Committee in California, and

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(*) Letter dated December 20, 1933, from Mark W. Cresap, Chairman of Men's Clothing Code Authority, to David Drechsler, Secretary of Men's Clothing Code Authority. (Men's Clothing Code Files, under Code Authority Members.)

(**) Minutes of Fourth Meeting of the Men's Clothing Code Authority. (Men's Clothing Code Files, under Code Authority Meetings.)

was counsel to that Committee. He was Secretary to the National Labor Policies Board in Washington during the war. He then came on to New York and acted as Impartial Chairman for the clothing industry, for something like two years. After that he went back to the Industrial Relations work. He has been with the Caterpiller Tractor Co. and acted as Vice President and Director for the last six or seven years.***"

Upon the resignation of Mr. Bell, the Code Authority elected as his successor Morris Greenberg, who has been recognized for several years as a technical expert in the Clothing Industry and who has been serving as Deputy Administrator in the Textile Division of the N.R.A.

The Secretary and General Counsel of the Code Authority was charged with the keeping of proper records and minutes of Code Authority meetings and was general legal adviser to the Code Authority, handling all cases before the Compliance Council. This office was held from the inception of the Code Authority by David Drechsler, a lawyer of twenty-five years' experience in New York City, experienced in legal problems of clothing manufacturing, having been counsel for the New York Clothier's Exchange--an association of clothing manufacturers. Mr. Drechsler was at one time a member of the New York State legislature.

The Comptroller of the Code Authority was responsible for the control of finances with respect to both receipts and expenditures. Also, he was charged with the computation and analysis of statistical reports required of industry members; was responsible for investigators, and assisted the Executive Director in interviewing persons accused of code violations. This position was occupied from the establishment of the Code Authority by H. K. Herwitz, who had twenty years' experience in financial and statistical affairs; formerly connected with the Municipal Research Bureau of Chicago; Vice-President in charge of statistics and financial research for the Amalgamated Bank in New York, and engaged in research for a New York brokerage house for five years.

The Code Authority, for the execution of its functions, was to a certain extent departmentalized, although the matter of policy and course of procedure was determined for the most part by standing and special committees usually appointed by the Chairman of the Code Authority. The principal departments of the Code Authority were the Label Divisions, the Compliance Division, and the Statistical Division. The chief committees were as follows:

Executive Committee
Committee on Amendments and Interpretations
The II (d) Committee
Compliance and Enforcement Committee
Finance Committee
Labor Committee
Committee on Publicity
Committee on Relations between Manufacturers and Contractors
Committee on Fair Trade Practices

II. COMPLIANCE PROCEDURE

The actual handling of certain compliance cases, the methods employed and criticisms arising therefrom will be discussed somewhat in detail in the chapter "Labor Under the Code." The present purpose is to describe in brief the machinery of compliance and the authorization by which the Code Authority took action on compliance cases in the first instance.

Officially the Men's Clothing Code Authority was given authorization to handle "all complaints in the first instance" by memorandum of January 22, 1934, to Division Administrator A. D. Whiteside, in which Wilson Compton, Chairman of the Code Authority Organization Committee, with the approval of W. H. David, National Compliance Director, states:*

"The Code Authority Organization Committee, after consultation with the National Compliance Director, recommends that the Men's Clothing Industry Code Authority be given temporary qualification to administer its Code including both Fair Trade Practice and Labor complaints in the first instance.

> "Since the District Comoliance Director has already been notified by Field Letter No. 28 that this Code Authority has been authorized to handle all complaints in the first instance, this approval is given 'nunc pro tunc.'"

A memorandum was forwarded to W. H. Davis, National Compliance Director, by A. J. Altmeyer, Chief, Labor Branch of Compliance, on January 11, 1934, stating that the Code Authority was qualified to handle Labor complaints in the dirst instance and that formal authorization should be recommended. This communication, however, concluded:**

"As a matter of fact I am advised that notice has already been sent to the District Compliance Directors that this Code Authority is authorized to handle all complaints in the first instance. Therefore, formal authorization is only for the purpose of completing the record."

(*) Memorandum dated January 22, 1934. (Men's Clothing Code Files, under Code Authority Committees.)

(**) Memorandum dated January 11, 1934. (Men's Clothing Code Files, under Code Authority Committees.)

It is true that District Compliance Directors had been authorized by Field Letter No.28, December 22, 1933, from the National Compliance Director, to "refer all complaints without time limit notice to the Men's Clothing Code Authority" for the reason that Deputy Administrator B. H. Gitchell (Administration Member) "had instructed us that the Men's Clothing Code Authority is authorized to handle all complaints of violations of the Men's Clothing Code in the first instance."

Deputy Administrator B. H. Gitchell, by letter of December 19, 1933, had advised the National Compliance Director that:

> "***the Men's Clothing Code Authority is organized with proper labor representation and is functioning in such a manner that it would be appropriate to have all complaints referred to it without limit."*

Deputy Administrator Gitchell's letter, above quoted, was in response to a suggestion from David Drechsler, Secretary of the Code Authority, that a recommendation from Mr. Gitchell was awaited in order that the Code Authority obtain permission to handle its labor problems.*

On February 12, 1934, Deputy Administrator Earl Dean Howard directed a memorandum to the head of the Code Authority Organization Committee, stating that the Code Authority had ample funds to carry on their work thoroughly, that qualifications of labor representation had been met, that the Administration was represented on the Code Authority, and recommending that authorization to deal with non-compliance cases be given the Code Authority.

In the meantime, while this belated activity with respect to formal authorization of the Code Authority to be handle complaints was being indulged in, the Code Authority had already proceeded to set up compliance machinery and was engaged in the actual handling of complaints, apparently with the knowledge and approval of Administration officials.

(*) Letter dated December 19, 1933, from B. H. Gitchell, Deputy Administrator, to W. H. Davis, National Compliance Director. (Men's Clothing Code Files, under Code Authority Committees.)

(**) Letter dated December 9, 1933, from David Drechsler, Secretary of the Code Authority, to Deputy Administrator B. H. Gitchell. (Men's Clothing Code Files, under Code Authority Committees.)

In the December 8, 1933, report of B. J. Cahn, Chairman of the Code Authority Compliance and Enforcement Committee, we find a statement of the Committee's understanding of its authority and obligations and the events leading up to the Administration's first official recognition of the Code Authority's compliance activity. The report of the Compliance and Enforcement Committee in part reads:

> "General Johnson gives to his Deputy the power to pass upon the ability of self determination of the part of a Code Authority, where such Code Authority is fully equipped to secure compliance with labor provisions of code and where such Code Authority provides for adequate labor representation. All complaints will then be adjusted within the industry and only such complaints as the Industry is unable to adjust, the Code Authority will refer for action to the Compliance Division of the N.R.A.
>
> "On Friday, December 1st, Mr. Robert Strauss of the District Compliance Division, (not being familiar with the work of our Code Authority) in a telephone conversation with Mr. Drechsler asked that we send to the Compliance Division at the Custom House in New York all complaints filed with us. Mr. Strauss was thereupon invited to visit our offices. On the following day Mr. Strauss called and conferred with Mr. Drechsler and Mr. Herwitz. A comprehensive statement was made of the organization of the Code Authority, its compliance and enforcement committee and the manner in which investigations, reports, and adjustments were made by it. At the close of the conference Mr. Strauss requested a written report upon which he could base his conclusion. Such report was made and filed with him on December 5th. (Copy annexed.) This report was submitted by Mr. Drechsler in person. I am informed that Mr. Strauss expressed complete satisfaction with the manner in which the compliance committee of the Code Authority handled its labor problems and was quite impressed with its entire set-up. It was his opinion that with the approval of the Deputy Administrator the Code Authortiy should continue as heretofor."

Procedure of the Men's Clothing Code Authority in the handling of complaints did not seem to be a matter for Administrative review again until around the middle of May, 1934, when in reply to a request from Assistant Deputy Administrator John R. Beecroft, the Comptroller of the Code Authority, H. K. Herwitz, advises as to the method used in handling labor complaints in detail, as follows:*

(*) Letter dated May 11, 1934, from H. K. Herwitz, Men's Clothing Code Authority, to John R. Beecroft, Assistant Deputy Administrator. (Men's Clothing Code Files, under Code Authority Committees.)

"As you are doubtless aware, the Men's Clothing Code Authority makes investigation on complaint and on its own initiative. We have at the present time approximately thirty investigators in the field, covering the important sections of the country.

"The reports of the investigators with respect to a specific establishment are not confined to the specific complaint but cover all questions of observance or non-observance of the standards of operation sections of our Code. These reports, when received, are analyzed by our report division and all computations as to deficiencies or underpayments are made in the office by the accounting section of this division.

"On the basis of the analysis of reports a statement is given to the firm, which is in violation of the Code, specifying in the fullest detail the nature of the offense, the amount of underpayment, if any, the period covered and other pertinent information. Opportunity is then afforded to the firm charged with the violation to either make written reply or to come in for a hearing at the offices of the Code Authority in New York. In some cases, we have arranged to have either Mr. Bell, our Executive Director, Mr. Drechsler, our Counsel, or myself, hold hearings in other centers. Recently Mr. Drechsler held hearings in Baltimore and in Cincinnati.

"Failure to make adjustment either by letter or at personal conference, or at hearing, the firm is notified that if no settlement is reached, the case will then be certified to the National Compliance Board.

"I am happy to state that relatively few cases have had to be referred to the National Compliance Board. We have been able to adjust by payment of the amount due or in some other satisfactory way, cases involving violation of standards of operation either after notification by mail or through our adjustment machinery, and we have relatively few cases referred to Washington on appeal.

"The Men's Clothing Code Authority has never had regional industrial agencies. All matters have been handled through the office at New York. We have no branch offices. We have investigators in all important section,s but they are from time to time transferred from one territory to another. We do not permit investigators to make adjustment, interpretations, or decisions in the field.

> "We have not adopted the method of regional agencies because we feel that all decisions should be made by a single agency so that the interpretation may be iniform in all parts of the country."

Assistant Deputy Administrator Beecroft appears to have been somewhat skeptical of the compliance procedure of the Code Authority, because a month subsequent to receiving the outline of methods employed, a memorandum relating thereto is addressed to the N.R.A. Legal Division, requesting an opinion at the same time saying:*

> "So far as I know, while official authorization has been granted the Code Authority to handle labor complaints in the first instance, I do not believe any method of procedure has been formally approved. This authorization was granted in Dr. Rogers' time, and is probably highly irregular according to our present requirements."

Whether or not the procedure in question was irregular, there is no record in Administration files that any further action was taken at this time.

(a) Industrial Adjustment Agency Contemplated.

It is a matter of interest that the Men's Clothing Code Authority, apparently at the suggestion of the Deputy Administrator in charge of the Code, gave some consideration to the possibility of compliance machinery of an "impartial" character. Evidence of this is found in a letter from the Executive Director of the Code Authority, which reads as follows:**

(*) Memorandum dated June 9, 1934, from John R. Beecroft, Assistant Deputy Administrator, to Milton Levy, Legal Division. (Men's Clothing Code Files, under Code Authority Committees, Trade Practice Complaints.)

(**) Letter dated June 5, 1934, from George L. Bell, Executive Director, Men's Clothing Code Authority, to John R. Beecroft, Assistant Deputy Administrator. (Men's Clothing Code Files, under Code Authority Committees, Trade Practice Complaints.)

"We have been giving further consideration to yours of May 7 and 14 regarding the creation of an Industrial Adjustment Agency with an Imperial Chairman to hear labor complaints and disputes.

"After discussing this matter thoroughly with our counsel, we believe that no such action is necessary. I think you and I have both overlooked the fact that we proceeded under Bulletin #7, Part 3, Section III, and that we were granted the authority to receive and act on complaints in the first instance. Before we were granted this authority, we had made a formal report to the Administration, as provided in that manual, setting forth the methods and required data. It seems evident, therefore, that the Administration approved of our general set-up and procedure, or we would not have been granted the right to handle complaints in the first instance."

III. USE OF LABELS

The Men's Clothing Code Authority from the beginning emphasized the importance of the label as a device for raising funds and gaining compliance with code provisions. The former function of the label will be discussed later in this chapter, in connection with the general financing of the Code Authority under the heading of "the Code Authority Budget." The procedure relative to the issuing and use of labels in connection with compliance functions is the matter of immediate consideration.

The procedure in issuance of labels, and requirements respecting their use, was fully outlined in the September 25, 1934, letter from H. K. Herwitz, Comptroller of the Code Authority, to Deputy Administrator M. D. Vincent. Following is a summary of such regulations:

1 - Labels are issued to all manufacturers upon filing of signed application and statement of compliance. Additional information relating to character of shop as--inside shop or contract shop or both--is required. Require signature on order card indicating persons who are authorized to order. Labels for stock on hand issued at the time label system was put into effect about October 10, 1935. Manufacturers required to make a sworn statement of number of finished garments on hand. Labels are issued only to manufacturers. Manufacturers who employ contractors are required to furnish the labels to said contractors.

2 - Labels issued cover a four weeks' production period. No credit is extended and no accounts receivable allowed.

3 - Label required on each individual garment, that is, on a three-piece suit, on the coat, vest, and pants.

4 - Code Authority, on December 8, 1933, ruled that labels must be attached when suits are in the process of manufacture.

5 - Code Authority does not withhold labels unless the National Compliance Council or Administrator has ordered the Code Authority to do so.

6 - Code Authority does not authorize and give publicity to withdrawal of labels unless ordered by National Compliance Council of N.R.A.

7 - Money collected from sale of labels deposited in bank designated by Code Authority and subject to withdrawal by persons designated by Code Authority. All accounts of Code Authority are subject to independent audit and all employees of Code Authority covered by blanket surety bond.

To the above-outlined label regulations should be added that in January, 1934, the Code Authority ruled that a manufacturer failing to use labels should pay to the Code Authority one-half cent for the label he should have used, and one-half cent for what would have been the cost of attaching the label.*

(*) March, 1934, Report of Committee on Compliance and Enforcement of Code Authority. (Men's Clothing Code Files.)

The above regulations, agreed upon and placed into effect by the Code Authority, appear to be entirely in harmony with codal provisions relating to labels which are found in Section V of the Code, as follows:

> "All garments manufactured or distributed shall bear an N.R.A. label, which shall remain attached to such garments. Such labels shall bear a registration number specially assigned to each manufacturer in the industry. The privilege of using such labels shall be granted and such labels shall be issued to any manufacturer from time to time engaged in the Clothing Industry upon application therefor to the Code Authority, accompanied by a statement of compliance with the standards of operation prescribed by this code. The privilege of using such labels and the issuance thereof may be withdrawn and cease or may be suspended in respect of any such manufacturer whose operations, after appropriate hearing by The Men's Clothing Code Authority and review by the Administrator, shall be found to be in substantial violation of such standards. Manufacturers shall be entitled to obtain and use such labels if they comply with the provisions of this code.
>
> "The Men's Clothing Code Authority may establish appropriate machinery for the issuance of such labels in accordance with the foregoing provisions."

From the foregoing provisions it would appear that the Code Authority did not exercise the full measure of its authority in the important matter of suspending the right of use of labels to violators of codal provisions. The Code Authority awaited decisions of the Compliance Council before taking action in this matter in which it is rather clear that authority existed for direct action, although subject to review.

While the Code Authority's label regulations appear well within the bounds of codal provisions relating thereto, it is not clear that they comply in every particular with Administrative Orders X-38 and X-135, issued May 28, 1934, and February 25, 1935, respectively, which set forth general label procedure and regulations. There is no evidence that label regulations were submitted for the approval of the Administration

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in the time specified prior to promulgation as required by Order X-38. Likewise, the charge for labels, as in case of the penalty charge mentioned above, was not approved by the Administration, and was in violation of both Orders X-38 and X-135.

Administrative Order X-135, promulgated on February 25, 1935, required the drawing up of label regulations in accord with rules set forth therein. The Men's Clothing Code Authority revised their label regulations and submitted them for Administrative approval under date of April 2, 1935. For the mostpart the old regulations were restated. The extent to which they fell short of official expectations can be best set forth by listing certain criticisms made by the Label Review Officer of N.R.A. The criticisms, as follow, are significant in that they make suggestions for more adequate label control in the Men's Clothing Industry, based upon experience derived from similarly situated industries. (*)

> "There is no provision within these Regulations for the suspension or removal of labels, and no reference to Administrative Order X-135. Inasmuch as this Code has never used the machinery provided for the suspension of issuance of labels, but has always resorted to final action by the Compliance Council in the first instance, any reference to suspension of issuance of labels is probably unnecessary.
>
> "Paragraph VIII of the Regulations states that the Code Authority delegates the power to hold hearings, concerning any of the provisions of the Code, to the Executive Director. Is this the proper instrument for including such a provision for delegation of power?
>
> "Paragraph IX and the following paragraphs state that a contractor shall not be entitled to purchase or receive labels from the Code Authority, and that all such labels shall be furnished for him and supplied to him by the manufacturer upon whose work such contractor is engaged. I consider this an unfortunate provision unless definite routine is prescribed and power delegated for the removal of the labels by the manufacturer from the contractor, on orders by the Code Authority, and the further stipulation that the manufacturer shall not receive any unlabeled goods from a contractor whose labels have

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(*) Letter dated May 3, 1935, from Dean G. Edwards, Label Review Officer of N.R.A., to M. D. Vincent, Division Administrator. (Men's Clothing Code Files, under Insignia and Label Regulations.)

been suspended or withdrawn by direction of the Code Authority. It seems to me that the last sentence of Paragraph IX does not sufficiently control the situation. In my opinion a better control of the label situation, from the point of the Code Authorits, exists under the arrangement now in effect by the Coat and Suit Code Authority and the Cotton Garment Code Authority. In these cases the contractor receives the labels direct from the Code Authority on order countersigned by the jobber, or some similar procedure. In this manner the removal of labels is direct and conclusive and the jobber is under obligation to receive no unlabeled goods from his contractor."

The Code Authority's practice of making an extra charge for labels which were left off suits by manufacturers, called to the attention of the Administration by Administration Member B. H. Gitchell, although having previously appeared in Code Authority records as above indicated, was made the subject of inquiry and explanation was requested of the Code Authority. (*) The Code Authority does not appear to have officially reported on this matter but it should be mentioned that no protests were made to the Administration concerning the penalty charge, and the Code Authority Committee on Compliance and Enforcement in its March, 1934, report states that "the ruling of the Code Authority has not been contested by any violator."

A. Label Publicity.

The March 2, 1934, report of the Publicity Committee of the Code Authority states that the Committee had definitely decided against the further expenditure of money for paid advertising of the label in any media whatsoever. It was agreed that trade publication or newspaper advertising was futile unless followed up over a long period of time and unless sums larger than the Code Authority's total income were expended. The Committee thereupon devoted its efforts to the securing of publicity by means other than paid advertising. The Committee called the Code Authority's attention to the National Garment Label Association campaign headed by Mrs. Franklin D. Roosevelt, which had as a plan the idea of enlightening men and women, especially women, on the meaning of labels and the necessity for customers requiring them on garments. The Committee indicated its willingness to participate in a campaign of this sort and suggested that a fair share of cost to the Code Authority might be around $10,000. Action on this plan was deferred but continued interest in cooperative action of the general type suggested was maintained by the Code Authority.

(*) Letter dated March 5, 1935, from Assistant Deputy Administrator Walter E. Woodford, Jr., to Morris Greenberg, Executive Director, Men's Clothing Code Authority. (Men's Clothing Code Files.)

In the June 8, 1934, report of the Publicity Committee of the Code Authority we find a protest against the stand of certain N.R.A. officials who are opposed to the use of Code Authority funds for labelspublicity and who have doubts as to the propriety or legality of using such funds in publicizing labels. It was agreed that the Men's Clothing Code Authority should join with other code authorities protesting this limitation. It is brought out in this Committee report that Administration officials advised that code authorities would have to cooperate in a proposal for the use of funds in this connection, with a budget subject to Administrative approval. The Committee proposed that the Men's Clothing Code Authority follow the lead of other large label code authorities in allocating two per cent of total proposed budget expenditures to a joint label publicity movement.

Out of the above-indicated experience of the Men's Clothing Code Authority and that of similar label-using code authorities, there was evolved a plan for an Apparel Codes Label Council. This Council, subject to Administrative control, was to be made up of representatives of code authorities subject to codes having mandatory label provisions. Joint action was to consist in the establishment of a central bureau of shoppers, and the education of customers in the meaning of the label. The aim was to secure publicity for the label activities of participating code authorities, "though without using paid advertising." This proposed Apparel Codes Label Council had not as yet received official approval when the Executive Director of the Men's Clothing Code Authority, on January 18, 1935, wrote Assistant Deputy Administrator S. H. Ourbacker that since such a plan had the endorsement of the Administration the Code Authority requests approval of budget expenditures under that heading, pointing out that the Council was organized November 1, 1934, and that the Code Authority had paid $600.00 per month for the months of November and December and had set up in the proposed budget for the first six months of 1935, the sum of $600.00 per month for the same purpose.

B. Label Compliance.

The March 2, 1934, report of the Committee on Compliance and Enforcement of the Men's Clothing Code Authority states: "about the middle of January (1934) it became apparent from the original survey that a considerable number of manufacturers and contractors were failing to use the labels from the Code Authority. In order to correct this situation, practically the entire staff of investigators were concentrated on a check-up of labels. The results have been very gratifying." The Committee goes on to explain that at this time was instituted the rule providing an additional cost for attaching labels which had been left off suits. The September 14, 1934, report of the Executive Director of the Code Authority states that "the number of reports of failure to use labels had rapidly decreased until today we have only rare instances where investigators discover an absence of labels."

C. Labels for Uniform Manufacturers.

The Men's Clothing Code Authority made special arrangement whereby

the Uniform Manufacturers, a semi-autonomous group under the Code, could supervise the distribution of their own labels. This arrangement and reasons therefor are explained in the following excerpt from the report of the Label Committee, dated November 8, 1933: (*)

> "The Label Committee estimates that not more than a million and a half labels would be used on uniforms during the current year. Sales of such a number of labels would bring a gross income of $7,500 and a net income of approximately $6,000.00. Offsetting the net income of $6,000.00 would be an expense of, in the opinion of the label committee, between $15,000.00 and $20,000.00 to adequately police the uniform industry because of the large number of individual manufacturers. It is therefore concluded an agreement with the National Association of Uniform Manufacturers whereby labels are sold to the Association at cost. The National Association of Uniform Manufacturers pays the Men's Clothing Code Authority $125.00 per month for the necessary clerical work. The National Association of Uniform Manufacturers sells the labels to uniform manufacturers at the regular price of $5.00 per thousand, retaining the difference to pay for the cost of administering and enforcing the Code among uniform manufacturers."

The National Association of Uniform Manufacturers created an intra-codal compliance problem around March 15, 1934, by increasing the price of labels from $5 per thousand to $12.50 per thousand for the regular label and $15 per thousand for the uniform label. This action was explained as necessary due to the precarious financial state of the Association. (**) The Code Authority did not approve this increased charge for labels and upon instructions from Washington the National Association of Uniform Manufacturers immediately reduced the price to $5.

(*) Report of the Label Committee of the Men's Clothing Code Authority, November 8, 1933. (Men's Clothing Code Files, under Committee Reports.)

(**) Letter dated June 5, 1934, from Harold W. Schwab, Executive Secretary, National Association of Uniform Manufacturers, to John R. Beecroft, Assistant Deputy Administrator. (Men's Clothing Code files.)

D. Retailers' Labels.

The use of the Men's Clothing Code label, on goods manufactured prior to the effective date of the Code, was protested on September 20, 1933, by R. H. Macy & Company of New York City, as misleading and as likely to lead to malpractices in the Men's Clothing Industry and others. (*) This protest was acknowledged by Deputy Administrator Rogers, who stated, "I agree with you that for the labels to read 'Manufactured under the Men's Clothing Code Authority' is misrepresentation and I have so informed the Code Authority."

Label sales to retailers for goods in stock and transit assumed considerable proportions. A reference to the Table XLVII on page 179 showing label sales and values, reveals that from September 6, 1933, the beginning of sales, through the quarter ending June 30,1934, retail labels were sold in the amount of 3,242,617, returning to the Code Authority $16,213.13. The bulk of these labels, as would be expected, were sold in the early period of the Code Authority operations. The Chairman of the Label Committee of the Code Authority reported that up to December 7, 1933, retailers numbering 1,045 had applied for labels and that many of the orders received were for chain stores.

There appears no definite authority under which the Men's Clothing Code Authority sold labels to retailers as such. The Retail Code, which was signed by the President on October 21, 1933, and which became effective the second Monday thereafter, provided that goods produced under Codes requiring labels must have such labels attached when purchased by retailers. Public opinion alone in its demand for label-marked goods at the outset seems to have given both the authority and means for selling labels to retailers. As a practical problem, had not such sales been made, a compliance problem could have developed from the impossibility of differentiating between goods made under codes and those already in stock or in transit.

E. Reduced Price of Labels for Children's Suits

The Executive Director of the Men's Clothing Code Authority advised the Administration on December 27, 1934, that the Label Committee agreed with the Code Authority's approval that certain suits and garments comparable with those manufactured under the Infants' and Children's Wear Code be allowed labels at $3 per thousand instead of the usual charge of $5 per thousand. Administrative approval was requested. This matter was noticed for objections from January 21, 1935, through February 11, 1935, as a possible alteration in the budget. The files show no criticisms or objections to the proposal to charge $3 for labels to be used on children's suits. Prior to the time when official sanction could be given this new label charge, the Administration approved a plan for continued sale of labels at $5, "upon the agreement to impound $2, to be refunded to the purchasers of such labels if and when the final order for the new budget is approved, fixing the new label charge."(**)

(*) Telegram dated September 20, 1933, from R. H. Macy to Administrator General Hugh S. Johnson; (Men's Clothing Code Files).

(**) Letter dated Jan. 9, 1935, from S. H. Ourbacker, Assistant Deputy Administrator, to George L. Bell, Exec. Director, Men's Clothing Code Authority. (Men's Clothing Code Files.)

Under date of February 11, 1935, Executive Director Bell reminded the Administrator that manufacturers were complaining about the impending of the $2 differential and that "as soon as the budget can be acted on we should have specific directions from you permitting the sale of the labels direct at $3 per thousand."

F. Proposed Reduction of Label Charge for Single Pants.

Some time after the Code Authority's action respecting a reduced charge for labels for children's garments, the issue of a preferred rate for labels on single pants arose. Administrative approval was requested of the Code Authority's decision, described by the following extract from the minutes of the Executive Committee: (*)

> "' The Executive Director brought up for consideration the request made by Mr. J. E. Brill, representing the National Boys' Pants Manufacturers Association, Inc., for a reduction in the price of labels on single pants, which request was referred to the Executive Committee by the Code Authority at its meeting on April 17, 1935. After much discussion it was unanimously decided that the Code Authority issue a special label for use on single pants only, to be sold at the price of two dollars ($2.00) per thousand; that this price be made retroactive to apply on all labels sold to single pants manufacturers for use on single pants on and after April 15, 1935.'"

IV. THE BUDGET

The Men's Clothing Code Authority first made definite plans for the submission of a budget for Administrative approval around the first of June, 1934. The Executive Director, in reporting to the Code Authority at that time, called attention to the Administrative Order applying to the use of labels, which was "to become effective June 15, 1934," stating that one of the requirements of the Order is that the Code Authorities concerned should submit a budget. (**) He concludes: "We have been in hearty accord with this requirement, and the budget for the remainder of the year will be submitted today for consideration." (***)

(*) Letter dated May 14, 1935, from Morris Greenberg, Executive Director of the Men's Clothing Code Authority, to Walter E. Woodford, Jr., Assistant Deputy Administrator. (Men's Clothing Code Files, under Budgets and Assessments.)

(**) The Executive Director is referring doubtless to Administrative Order X-38, signed May 18, 1934, and which became effective 15 days thereafter.

(***) Code Authority Report of Executive Director, June 8, 1934. (Men's Clothing Files.)

A more detailed explanation of the delay in submitting a budget for Administrative approval is found in a letter of May 17, 1934, directed to the Assistant Deputy Administrator in charge of the Code, which reads in part as follows: (*)

> "Together with the other Code Authorities that issue labels, we have been withholding the transmission of our budget pending the issuance of the proposed regulations covering all Code Authorities issuing labels, as the drafts of the proposed regulations have specific clauses dealing with budget requirements and reports of expenditures, and we wanted to be sure that our budget would conform with these regulations.
>
> "We now understand that these regulations will be finally decided upon within the next few days, and promptly thereafter we shall file with you our budget together with the report of our expenditures to date, and a statement as to the plan for raising the requisite money through the issuance of labels."

Prior to the above-indicated plans for the submission of a budget the Code Authority as reported by its Finance Committee on November 8, 1933, and on June 8, 1934, had made plans for independent audits, had covered employees for a blanket surety policy and had provided for the safe-keeping of funds in various bank accounts, giving right of withdrawal to only properly-authorized officials.

The first official Administrative recognition of the budget is found in Order No. 15-35 dated October 13, 1934, and covers a notice of opportunity to be heard on the budget period from July 1, 1934, to December 31, 1934. The total amount for the period was $225,000 and it was proposed that labels be sold at the rate of $5 per thousand. Earlier, on September 14, 1934, the Executive Director advised the Code Authority that the budget in general had been approved, but that certain additional information was desired by the Research and Planning Division of N.R.A. This information appears to have related to allocation of funds for label publicity and to duties, salaries, and background of the Code Authority officials. The controversy concerning the use of funds for label publicity has been discussed above under the heading "Labels."

On January 9, 1935, by Administrative Order 15-49, the budget for the period July 1, 1934, to December 31, 1934, was approved. The total amount provided in the budget was $225,000 and a label charge of $5 per thousand was approved. The approval of this budget attached certain provisos as follows: The Code Authority must submit not later than January 31, 1935, a report with reference to (a) the more economical administration of the code through consolidation of Administrative agencies whereever practicable, and (b) such other economies in local and national administration as appear desirable. It was further provided that the Code Authority commence a study and report on the

(*) Letter dated May 17, 1934, from George L. Bell, Executive Director of the Men's Clothing Code Authority, to John R. Beecroft, Assistant Deputy Administrator. (Men's Clothing Code Files, under Budgets and Assessments.)

equitability of the present system of label charges, -- consideration to be given volume of business done in various price ranges, etc. The Code Authority was requested to take immediate steps to submit a budget in proper form covering operations subsequent to this budget, not later than January 15, 1935. It was further provided that $3,600 collected under this budget for the purpose of label advertising to be held in trust subject to further oder of the N.I.R.A.

The budget plan for the last half of 1934 and the basis of assessment was extended January 9, 1935, by Order No. 15-60, pending further order. This extension was "on a pro rata basis" subject to conditions contained in the Order approving the July 1, 1934--December 31, 1934, budget. This action was requested by telegram of January 9, 1935, by the Code Authority, in order that time might be had for submission of a new budget to cover the first half of 1935.

Shortly after the extension of the budget on a pro rata basis, the basis of contribution, i. e., the label charge, was noticed for hearing under Administrative Order No. 17-55, dated January 23, 1935. For the guidance of the Administration, the views of members of the industry and all others concerned were desired relative to the proposal to charge $5 per thousand for labels to be used on the following children's garments, - labels to be sold at $5 per thousand for use on all other garments:

Rugby Suits	sizes	4 to 10
Eton Suits	"	4 to 10
Reefers	"	3 to 10
Overcoats	"	3 to 10
Knickers	"	6 to 16
Boys' long pants suits	"	10 to 16
Topcoats and overcoats	"	11 to 16
Mackinaws	"	6 to 16

In compliance with the Administration's request both in respect to provisions of Administrative Order No. 15-69 and a reminder telegram from Assistant Deputy Administrator Ourbacher on January 15, 1935, the Code Authority submitted to the Administration around January 15, 1935, a budget covering the first six months of 1935. Accompanying this budget were extracts from the minutes of the Code Authority's Executive Committee which read as follows:

> "Further discussion was had concerning the budget for the first six months of 1935, and it was decided unanimously that, although an amended budget may have to be filed later on, there should now be submitted a budget with an estimated net income from the sale of labels of $180,000 for the six months' period from January 1, to July 1, 1935, or an average of $30,000 per month.
>
> "It was also unanimously decided that the budget submitted at this time for the first six months of 1935, with specific allotments required, be for a total of $180,000. In the allotments of the various functions as required in the budget form of the Administration it was decided that the present actual rate of expenditures

be set out, the total of which will approximate $29,000 average per month, and that the balance between that average per month and $30,000 be entered as a reserve for contingencies, such as hearings on proposed amendments to the Code, hearings on interpretations, etc., for legal expenses and retainer of attorneys in connection with litigation that may be instituted, research study and general unforseeable incidentals."

An examination of the proposed budget for the first six months of 1935 shows no change in the Code Authority's estimate for the need of funds as compared with the last six months of 1934. Both budgets estimate a net total sum of $180,000 for each of the respective periods. The matter of "equitability of label charges" already reported on to the Administration as above indicated, is specifically allowed for in the new budget in estimating revenues upon the basis of $3 labels for certain children's wear. (Also see below under Cost of Code Authority to the Industry.)

A summary of the issues in this budget problem as outlined on February 28, 1935, by an Administration official to the Assistant Deputy Administrator in charge of the Code, will present the chief points and types of criticism which actuated Administrative conduct in this matter. (*) The survey points out:

"The Men's Clothing Code was adopted on September 6, 1933, and the Code Administration organized thereunder carried on its affairs without an approved budget from September 6, 1933, to June 30, 1934. A budget was submitted covering the period from July 1, 1934, to December 31, 1934, and formal approval of this budget was given on January 9, 1935. No formal approval has been given for any subsequent budget for the period after December 31, 1934, or for a budget covering the period from September 6, 1933, to June 30, 1934.

"An audit report has been submitted which indicates income received and expenses incurred for the budgetary period from July 1, to December 31, 1934. These incurred expenses for this budgetary period are in excess of the budget provisions in the total amount of $6,238.56."

The author of the above goes on to argue that fundamental theory on budget expenses presupposes that actual or incurred expenses must conform to the previously-determined amount provided for in the budget, thus building up a case in favor of withholding funds which have been saved on certain items, as against paying them our on certain accounts which overran the budget estimate. He concludes that four problems stand out in the Men's Clothing Code Authority Budget, as follows:

(1) The accounts payable as of December 31, 1934.
(2) The revision of the budget for the period July 1, to December 31, 1934, to include all incurred expenses over and above the approved budget.

(*) Memorandum dated February 28, 1935, from B. L. Eberts to Assistant Deputy Administrator Walter E. Woodford, Jr., (Men's Clothing Code Files.)

(3) The submission of a budget and an audit for the period September 6, 1933, to June 30, 1934.
(4) Budget for period after December 31, 1934.

Following is a summary of the remarks made respecting the four problems above-outlined: (*)

(1) Suggests that all items of accounts payable be remitted immediately to creditors because the payments due are not in excess of the budget provisions, with one exception, specifically legal expenses.

(2) Suggests that for the period July 1, to December 31, 1934, the proper procedure for the Code Administrator is to submit at the earliest possible date a revised budget and request approval. In so doing, full and accurate explanations must be set forth stating the reasons for the variance from the items of expense contained in the original budget. "That is, the excess of salaries of $11,340.06 over the amount provided in the budget." "The item of legal expense of $14,396.92 which was included in the audit report of general expenses, must be explained fully in all detail and justified as necessary in all particulars." Explanation must be given as to why two associate counsel were employed in Baltimore on the Greif case. Explanation should be made of the $7,500 to be paid firm of General Counsel in view of Counsel's capacity as Secretary and Counsel for the Code Authority on a salary basis.

(3) In order to meet with all necessary formalities the Code Authority should arrange to submit a budget of expenses for the period September 6, 1933, to June 30, 1934. Likewise an audit report should be submitted and should be similar in form to the audit report submitted for the period July 1, to December 31, 1934.

(4) The Code Authority is now functioning without an approved budget. It is suggested that the Code Authority take immediate steps to give full attention to all items pending upon budget and audit in order that they may be clarified and placed in order at the earliest possible date. This is in the interest of effecient management and is necessary to allay and forestall the possibility of criticisms and adverse publicity.

In the meanwhile creditors of the Code Authority were pressing for payment and the Executive Director in letter of February 9, 1935, asked permission of the Administrator to meet bills payable as of December 31, 1934, stating that the Code Authority had plenty of funds and submitting Administration Member Gitchell's recommendation supporting the request. (Mr. Gitchell's approval was qualified with respect to extra legal fees above mentioned.) This matter was called to the attention of the Code Authorities Accounts Section, which advised the Administrator that the Code Authority should determine which of the

(*) Conclusions drawn by Mr. Eberts in reporting to the Deputy Administrator on the Men's Clothing Code Authority Budget.

accounts may be paid without exceeding the budget either in the individual items or in total. It was likewise suggested that the Code Authority submit immediately a revised budget covering the period ended December 31, 1934, re-allocating the amounts in such fashion that the other excess may be paid.

Certain irregularities in the budget indicated by the above review were forcibly brought to the attention of the Executive Director of the Code Authority on March 23, 1935, in a letter from the Deputy Administrator in charge of the Code. The Deputy Administrator stated:

> "Items that are the subject of chief criticism of the Code Authorities Accounts Section are the following:
>
> "1. Over-payment of two months' salary to Executive Director Bell upon his resignation.
>
> "2. Extra legal services in the sum of $5,000 paid in Grief case.
>
> "3. Extra legal services paid to Mr. Drechsler over fixed annual retainer or salary.
>
> "Obviously the need for over-payments should have been stated with adequate covering or supporting information to justify. Instead they were paid without submission for approval and are now pending under criticism and objections mentioned.
>
> "May I take this opportunity to say that we understand, of course, that in the day to day services and activities of the Code Authority it is possible the need for expense not anticipated by the Budget will be encountered. When this situation arises, however, it is very easy to report it with the accompanying facts and circumstances.
>
> "Sound business practice dictates that budget limitations must be observed." (*)

In connection with criticism of specific items of the Men's Clothing Code Authority Budget, it is significant that on the occasion of the temporary vacancy in the office of Executive Director, Deputy Administrator Vincent suggested to the Administrative Division concerned, that the salary of this office be brought in line with sound policy. (**) Mr. Vincent set forth his recommendation and reasons therefor as follows:

> "I recommend that the Director's salary item be reduced to $12,000 per year. (Note: Director's salary budgeted at $25,000 per year). In making this recommendation, I do not wish to be understood as suggesting this amount as an inflexible maximum. I do believe

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(*) Letter dated March 23, 1935, from Deputy Administrator M. D. Vincent, to Morris Greenberg, Executive Director, Men's Clothing Code Authority. (Men's Clothing Code Files, under Budgets and Assessments).

(**) Memorandum dated February 28, 1935, from Deputy Administrator M. D. Vincent to Research and Planning Division. (Men's Clothing Code Files.)

that $12,000 or at most $15,000 per annum takes into account the importance and responsibility of the office in a reasonably liberal way. $12,000 is equal to the salaries paid by the government to executives in most responsible positions, including members of the Cabinet. For the National Recovery Administration to allow salaries greatly in excess of such an amount has already aroused and will doubtless continue to call forth criticism.".

A. Summary of the Financial Reports Covering the Budget.

The activities of the Men's Clothing Code Authority were financed by the sale of labels which were purchased by the manufacturers from the Code Authority. The total of labels sold to April 30, 1935, was 137,700,579, yielding the sum of $682,368.77. (*) The Code Authority estimated that their requirement for one year was 90,000,000 labels.(**) An examination of the reports made shows: (***)

Gross Income from September 6, 1933, to April 30, 1935, amounted to	$706,164.55	1/
Cost of printing labels	131,666.62	
Net Income	$574,497.93	2/

1/ Including return from labels and other income (service income from uniform labels, fines, etc.)

2/ Net income before operating costs.

Cost of operation from September 6, 1933, to April 30, 1935	499,207.41	
Surplus for period	$ 75,290.52	(****)

The financial activities of the Men's Clothing Code Authority were divided into three periods:

September 6, 1933, to June 30, 1934, for which no budget was ever submitted.

July 1, 1934, to December 31, 1934, for which the budget was approved January 9, 1935.

(*) See Table XLVII. Number and Value of Labels Sold by Men's Clothing Code Authority.

(**) Review of N.R.A. Label Agency Activities, by Dean G. Edwards, N.R.A. Label Agent.

(***) (a) Report Upon Examination of Income and Expenses for period ended June 30, 1934, by Lybrand, Ross Bros., and Montgomery.
(b) Report Upon Examination of Accounts as at December 31, 1934, by Lybrand, Ross Bros., and Montgomery.
(c) M. C. C. A. Report for the Month of April, 1935.

(****) The surplus on the Men's Clothing Code Authority Report for the Month of April, 1935, shows $74,784.38 due to a balance of $43,460.33 being used in the Report for the Month of January instead of $43,966.47 shown in the Report upon Examination of Accounts as at December 31, 1934, by Lybrand, Ross Bros., and Montgomery.

January 1, 1935, to June 30, 1935, for which the budget was submitted but never approved. The budget approved for the last half of 1934 and the basis of assessment was extended January 9, 1935, by Administrative Order No. 15-50, pending further Order.

The first period report shows: (*)

Gross Income September 6, 1933, to June 30, 1934		$345,810.90
Cost of Labels		67,356.06
Net Income		$278,454.84
Cost of Operation		
Accounting & Label Dept.	$16,775.76	
Enforcement	79,489.32	
Publicity	8,514.99	
Statistical	10,172.09	
General Office Expense	67,289.56	182,241.72
Excess of Receipts over Expenses		$ 96,213.12

A budget for the period from July 1, 1934, to December 31, 1934, was approved January 9, 1935, for

Estimated Gross Income	$225,000.00
Estimated Cost of Printing Labels	45,000.00
Estimated Net Income	$180,000.00
Budget Exclusive of Label Cost	$180,000.00

The second period report shows: (**)

Gross Income	$178,991.91
Cost of Printing Labels	30,880.46
Net Income	$148,111.45

(*) Report upon Examination of Income and Expenses of the Men's Clothing Code Authority for period ending June 30, 1934, by Lybrand, Ross Bros., and Montgomery.

(**) Report upon Examination of Accounts as at December 31, 1934, by Lybrand, Ross Bros., and Montgomery.

Cost of Operation		
Salaries	$124,088.66	
Office Expenses	25,300.07	
Travel Expenses	31,423.48	
General Expenses	14,864.22	
Other Special Outlay	4,681.67	200,358.10
Excess of Expenditures over Receipts		$ 52,246.65

Showing expenditures of $20,358.10 over the approved Budget.

Surplus as of June 30, 1934	$ 96,213.12
Less Deficit for the period	52,246.65
Surplus December 31, 1934	$ 43,966.47

The budget for January 1, 1935, to June 30, 1935, was never approved. Administrative Order No. 15-50, extending budget approved by Order No. 15-49, dated January 9, 1935, on a pro rata basis until further order by the National Industrial Recovery Board, was signed January 9, 1935. The Code Authority operated under this Order up to the decision of the Supreme Court. The net amount of the proposed budget was the same as that for the previous period, i. e., $180,000 exclusive of the cost of labels. The estimate on income was somewhat changed, as follows:

Estimated Gross Income	$221,000.00
Estimated Cost of Printing Labels	41,000.00
Estimated Net Income	$180,000.00

The third period report for the first four months ending April 30, 1935, shows: (*)

Gross Income		$181,361.74
Cost of Labels		33,430.10
Net Income		$147,931.64
Cost of Operations		
General Administration	$21,371.66	
Compliance	74,958.24	
Finance--Shipping	5,871.61	
Publicity	67.50	
General Expense	14,338.58	
		116,607.59
Excess of Receipts over Expenses		$ 31,324.05
Surplus December 31, 1934		43,966.47
Surplus April 30, 1935		$ 75,290.52

(*) Men's Clothing Code Authority Report for the Month of April, 1935.

The cost of operation was $3,392.41 under the amount called for under the budget for the four months ending April 30, 1935.

B. Cost of Code Authority to the Industry.

In considering the expense of operating the Men's Clothing Code Authority, it is of interest to note that the price at which the labels were sold was so low (equal to ½¢ per single garment plus the actual cost of sewing on the label) that there was no material charge to be added to the cost of manufacturing the individual garment or to the selling prices of same.

The Men's Clothing Code Authority in presenting their proposed budget for July 1, 1934, to December 31, 1934, on September 27, 1934, under "Income Estimate Based on Label Sales, Gross and Net Income" stated:

"It is estimated that we would sell during the six-month period approximately 45,000,000 labels. The price of the label was therefore fixed at 1/2¢ per label to yield the gross revenue required.

"The gross amount of business of the Clothing Industry at wholesale amounts to approximately $500,000,000.00 per year. In 1931, according to the Census reports, gross value of product was $513,792,000.00 and in 1929, $841,101,000.00. On the basis of the gross value of business estimated, the label charge represents 9/10 of a mill per dollar of product.

"The assessment on the industry in the purchase of labels represents, on the average, therefore, 90¢ per $1000.00 value of products sold. In the case of a concern doing a $1,000,000 worth of business, the charge for labels for the year would be on the average, $900.00. The charge of the industry for administering the Code, can, therefore, be considered as a very reasonable one.

"The relation of the cost of the label to the wholesale price of a suit is indicated as follows:

Suit Selling at Wholesale		Percent Label Cost of Selling Price expressed in 1000's of one percent
$13.50	($22.50)*	.110
$15.00	($25.00)*	.100
$16.50	($27.50)*	.090
$18.00	($30.00)*	.083
$21.00	($35.00)*	.071

*Figures in parentheses represent retail prices.

"In 1931, according to United States Census reports, the average wholesale price of a suit was $16.15. The bulk of the suits sold today average approximately this figure.

"***The consensus of opinion among manufacturers is that a system of separate labels for variously priced garments would create confusion and result in errors. It would also involve imposing considerable administration expense on the Code Authority and a check-up of the books of the individual manufacturer's invoices, shipping records, etc., to determine whether the proper label had been placed on a given garment. The expense involved would far out-weigh any saving even to the manufacturer of the cheaper garment. Moreover, since the cost of printing the label is a fixed charge, the net revenue available for administration would be reduced more than proportionately with the reduction of the price of the label for the lower priced garment.

"The attitude of the manufacturers is in favor of the present system. This is indicated in the vote at the last meeting of the Code Authority on a proposal that manufacturers should use one type of label for the coat, a different type of label for the pants and still another for the vest. The manufacturer representatives were unanimous that it would put a considerable burden on them in the routing and handling of three different types of labels in their shops, even if the manufacture of clothing were carried on in a separate unit for the manufacture of coats, another for pants, and a third, for vests.

"The administration expense for handling of labels has been held to a minimum by the Code Authority. It is estimated that approximately 3% of the gross revenue has been required to operate this department." (*)

The table "Principal Products, by Class and Value, 1923 and 1925, and by Class, Quantity and Value, 1927-1934" on page 51, Chapter I, indicated a product value for the Men's Clothing Industry of $397,876,000 for the year 1934. Compared with the actual cost of the Code Authority for the calendar year 1934, estimated in the auditor's reports at $399,860.68 (including cost of labels), this shows a cost of approximately one mill per dollar of garments produced. Incidentally, the auditor's reports show an excess of income over expenses of $8,945.92 for the calendar year 1934.

V. INTERPRETATIONS AND INTERPRETATION PROCEDURE

It was discovered soon after the adoption of the Men's Clothing Code that interpretations of many of its provisions were necessary to its proper execution. Most of these interpretations and especially the more significant ones have to do with wage and hour provisions, and can be discussed together conveniently. Moreover, the procedure in connection with the framing of these interpretations and their presentation for

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(*) "Income Estimate Based on Label Sales, Gross and Net Income," Code Authority Budget for Period from July 1, 1934, to December 31, 1934. (Men's Clothing Code Files.)

Administrative consideration is an excellent commentary upon the manner and character of cooperation between the Code Authority and the Administration and appears to justify the discussion of "interpretations" separately and apart from related aspects of developments under the Code.

A. Interpretations Submitted for Administrative Approval.

Eight interpretations relating to separate and distinct problems are stated by the Code Authority to have been given oral approval as early as September 26, 1933, by Dr. Lindsay Rogers, who was at that time the Deputy Administrator and Administration Member on the Code Authority.
(These interpretations are quoted below.)

These interpretations were first submitted to the Administration for formal approval on October 15, 1934, by Administration Member B.H. Gitchell, who explained that oral approval had been given earlier, "At that time the only approval necessary in connection with Code interpretations.(*) These interpretations are now sent you in accordance with the present procedure so that the records can be thoroughly clear." The submission of these interpretations was acknowledged October 15, 1934, by Deputy Administrator Dean G. Edwards with the comment, "We will act upon these interpretations as promptly as possible so that the records can be entirely clear in this regard."

With but five exceptions, it seems that the above-mentioned interpretations had not obtained official approval prior to December 28, 1934, at which time the entire list said to have been approved orally by Deputy Administrator Rogers, together with eleven additional interpretations, were submitted to the Administrator by the Code Authority. In submitting these interpretations for approval, the Comptroller of the Code Authority states, "---we have not yet had official approval of interpretations Number 1, 2, 4, 5, 6, 8, 9,10, 11, 14, and 18 ---- would appreciate hearing from you as soon as possible about these interpretations." The list of these interpretations follows, together with the date of approval by the Code Authority:

"1. Tailors-to-the-trade-hours of labor

"On behalf of the branch of the Clothing Industry known as tailors-to-the-trade, conferences were held

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(*) "Office Order 47, issued on December 11, 1933, required interpretations to be approved by N.R.A. This Order was finally supplemented by Office Order No. 60, issued January 16, 1934, which approved an order of procedure for the approval of interpretations involving their submission before approval to the various N.R.A. Advisory Boards." (J. G. Latimer, Legal Division N.R.A.) Men's Clothing Code Files, under Senate Hearing.)

with representatives of labor, and as a result of such conferences, it was the intent of the conferees that before any extra hours of work would be permitted to a tailor-to-the-trade, he would be required to satisfy the Code Authority that he had taken on additional employees to full plant capacity, and that in such event he would be permitted to operate his plant and employ the manufacturing employees on the basis of 40 hours each week, for a period not to exceed 6 weeks of the full season of 1933 and up to and not later than November 30, 1933.-----
Approved September 6, 1933

"2. Non-manufacturing employees as used in Article II, shall be construed to refer to the excepted employees mentioned in Article IV.----
Approved September 6, 1933.

"3. Cleaners and basting pullers have been defined as 'manufacturing employees.'-----
Approved September 26, 1933.

"4. The word 'cutters' as used in Article II, Subdifision (a) is defined as follows:
"Cutters on cloth include those cutters that make, lay, and /or mark, cut by hand or machine, fit or chop.

"Cutters on linings shall include only markers, and hand or machine cutters on coats, body linings and vest back linings.----
Approved September 26, 1933.

"5. The word 'off-pressers' as used in Article II, Subdivision A, is defined as follows:

'Off-Pressers on coats will include all hand or machine pressing performed on the coat after the lining is felled. Off-pressers on vests by hand or machine on the body and lining presser after the vest is finished. Off-presser on pants and knee-pants by hand or machines or the top presser and leg presser. Off-pressers do not include under pressers commonly known as part or piece pressers.-----
Approved September 26, 1933.

"6. The words 'substantial classes' as used in Article II, Subdivision B, are to include 20 per cent of the total number of employees employed in any establishment.

"If however, there is any individual case in which 20 per cent seems inequitable, the full facts of such case are to be communicated to the committee provided for in Article II, Subdivision D, for their further consideration.-----
Approved September 26, 1933.

"7. Subdivision B of Article XII shall not apply to such manufacturers who make garments for tailors-to-the-trade or special orders houses where such garments are made to measure for individual customers.
Approved September 26, 1933.

"8. No provision for close-outs or clearance sales for topcoats is found in Article X. The decision of the Code Authority is that topcoats, either for the spring or fall, may be closed out at such periods as the manufacturer deems desirable.----
Approved September 26, 1933.

"9. In interpretating the words 'average of 40 hours' used in the second paragraph of Article IV for certain employees, the interpretation committee of the Code Authority will advise each manufacturer to arrange his hours in such a manner which will be most convenient for his business provided that they do not exceed an average of 40 hours per week during any year.----
Approved September 26, 1933.

"10. With respect to making up time for holidays, the interpretation committee advised that if the employer can arrange with the employee to put in 36 hours in any one week, with not more than 8 hours in any one day, such arrangement would be consistent with the provisions of the Code.----
Approved September 26, 1933.

"11. Application Article II, paragraph (b) - (The interpretation No. 6) - the words 'substantial classes' as used in Article II, Subdivision (b) are to include 20 per cent of the total number of employees employed in any establishment.

"If, however, there is any individual case in which 20 per cent seems inequitable, the full facts of such case are to be communicated to the committee provided for in Article II, Subdivision (d) for their further consideration.

"This interpretation shall become effective with the first payroll following November 20, 1933, and shall not be retroactive. (Illustration annexed hereto.)----
Approved November 8, 1933.

"12. Lining pressing after off-pressing is classified as 'off-pressing.'----
Approved December 8, 1933.

"13. Under-collar cutting is not cutting as defined by the Code.----
Approved December 8, 1933.

"14. A non-manufacturing employee working less than a full week should be paid at an hourly rate for the number of hours worked.--
Approved December 8, 1933

"15. Where customer's labels are sewn on in the stock room they should be classified as non-manufacturing employees; labels put

on by machine or hand in the factory, should be classified as manufacturing employees.------
Approved December 8, 1933.

"16. Bundle boys and packers are to be classified as non-manufacturing employees.-----
Approved December 8, 1933.

"17. Bushelmen, not including final inspectors or final examiners, are considered as manufacturing employees; final inspectors and final examiners are non-manufacturing employees.-----
Approved December 8, 1933.

"18. Interpretation re Article V - The Committee rules that N.R.A. labels must be attached to each garment when the same is in the process of manufacture whether said garment is made in an inside shop or in a contract shop. -----
Approved December 8, 1933."

As already indicated, certain of the above-listed interpretations had received Administrative approval in one form or another. Eight of this group, by number as above-listed, 3, 4, 5, 6, 7, 8, 9, and 10, were understood to have been approved orally by Deputy Administrator Rogers. Number 8 of this group of eight had been written into the Code as an amendment on December 15, 1933. Of the group, only five, specifically, Nos. 3, 11, 12, 14, and 16, had been approved by Administrative Orders.

The list of interpretations submitted by the Code Authority on December 28, 1934, above-listed, was acknowledged on January 3, 1935, with the following comments and suggestions, referring to interpretations by number:

"1. This is not the proper topic for an interpretation but should be handled in the form of an amendment. The Code Provisions clearly give the Code Authority specific powers to set the week and hours of overtime during peak seasons, but does not present any other restrictions. These provisions may be for an entire industry, individual group or for a section of the country. The code is also silent on the determination of the peak season.

"2. This tends to amend the Code and should be submitted as an amendment. Makes direct interpretation and not by reference.

"4. This tends to amend the Code and should be submitted as an amendment.

"5. This tends to amend the Code and should be submitted as an amendment.

"6. This interpretation is almost a reiteration of interpretation No. 11 and it is not necessary to approve both interpretations. I would recommend that the Code Authority state which interpretation it prefers.

"10. In the first paragraph under the interpretation the words 'the interpretation committee advises that' are being deleted.

This is being put through as an explanation as the language of the Code is not in sufficient doubt to warrant an interpretation.

"11. See interpretation No. 6 above.

"14. This should be changed so that under the heading, facts, should be included the provisions of the Code which refer to the fourteen dollar weekly rate and also that there be quoted from provision (e) of Article II that portion of the provision guaranteeing the minimum rate of pay whether by piece rate or other basis. The paragraph in the interpretation under the heading 'question' should be changed to read:

'If a non-manufacturing employee is employed for less than a full week, he may be compensated at an hourly rate which would yield for a full time week of the number of hours as provided for in the Code, the weekly minimum established by the Code.'

"However, the Code should be amended to provide for a weekly wage which shall be 'at the rate of $14.00.'"

During the time that the Code Authority and the Administrator were attempting to "clear the records" with respect to interpretations formulated by the Code Authority early in its experience, another group of interpretations had been approved by the Code Authority in its meeting of March 2, 1934, and were brought to the attention of the Administration soon thereafter. It is interesting to note that Administrative approval of these interpretations was delayed until around the middle of July, 1934, at which time thirteen out of the fourteen submitted were formally approved. On being reminded by the Code Authority, the Administrator on June 7, 1934, explained delay up until that time by writing, "I regret very much that in the press of other matters these interpretations have been slightly neglected. This is not entirely due to negligence, but mainly because of the form in which these interpretations were submitted." The letter then goes on to explain the proper form of transmittal, indicating that each interpretation should be on a separate sheet with a certain number of copies and carrying the recommendation of the Administration Member. By June 12, 1934, the interpretations had been submitted in the form requested, and by July 19, 1934, had been acted upon.

The interpretations approved by the Code Authority on March 2, 1934, and later approved by the Administration (with one exception, No. 14), are as follows:

1. "A worker who is employed in the cutting of master patterns if such work is done in a department wholly segregated from any manufacturing operations is classified a non-manufacturing employee. A person who cuts a paper pattern from a block pattern is a cutter within the definition."

2. "Routing of work from cutting room to the various shops, after parts are assembled and tied, is a non-manufacturing occupation."

3. "A person who checks the lay and/or the cut, and neither marks, cuts or fits, shall be classified as a supervisory employee."

4. "A worker who checks the lay after it has been marked by the cutter, and/or cuts and/or assembles or fits the various parts after they have been cut by the cutter, is a cutter within the definition."

5. "A worker, engaged in the sponging and shrinking of cloth, shall be classified as non-manufacturing, provided, however, that this work is done before the cloth is cut."

6. "A worker who carries patterns to and from the racks, shall be classified as non-manufacturing."

7. "An employee engaged in the printing of joker tickets shall be classified as non-manufacturing."

8. "A worker who cuts canvas and selicia as well as vestbacks and body linings shall be compensated at the rate of not less than $1.00 per hour for the time spent in cutting vest backs and body linings and may be compensated at a lower rate for the time spent in cutting canvas and selicia, on condition that the employer shall keep an adequate and proper record which will disclose the number of hours worked on each of the several operations, the amount of earnings received per hour, and if the work is on a piece work basis, the piece work rates."

9. "An employee who wets cloths for the off-presser, shall be classified as a non-manufacturing employee, and not as an off-presser."

10. "An employee whose work is divided between operations which are classified as manufacturing and non-manufacturing, shall be compensated on the basis of the number of hours worked on each of the several operations, on condition that the employer shall keep an adequate and proper record which shall disclose the number of hours worked on each of the several operations, the amount of earnings received per hour, and if the work is on a piece work basis, the piece work rate."

11. "Busheling on garments sold at retail direct to the consumer and returned for alteration by the consumer, is a non-manufacturing operation only when such operations are carried on in a separate department wholly distinct from manufacturing operations."

12. "The earnings of any worker shall be determined on the basis of the number of hours worked in any one week."

13. " A worker who cuts a piece of lining from the bold and uses a pattern as a guide for cutting said lining, is a cutter within the definition."

14. "Where two or more persons, engaged in the manufacture of clothing, perform productive labor in the manufacture of such clothing such persons come within the province of the Men's Clothing Code. "

B. Interpretation Publicity

The Code Authority made known to the Industry its various interpretations including those approved by the Administration in the manner and on the dates indicated by the following:

"Interpretations 1 to 18 inclusive, were distributed to all members of the Men's Clothing Industry by the Code Authority in a circular letter dated January 6, 1934. Attached hereto is a copy of a letter sent to the industry transmitting these interpretations. (See last paragraph of this letter.) Prior to being circularized throughout the Industry, these interpretations appeared in the trade Journal of the Men's Clothing Industry, the DAILY NEWS RECORD, issues of November 11, 1933, November 13, 1933, and December 20, 1933, respectively.***

"An additional number of interpretations approved by the Administrator on August 7, 1934, August 8, 1934, and August 9, 1934, and August 15, 1934, respectively, was published in the DAILY NEWS RECORD of August 22. 1934,****"(*)

(*) Letter dated February 27, 1935, from Morris Greenberg, Executive Director, Men's Clothing Code Authority, to M. D. Vincent, Deputy Administrator. (Men's Clothing Code Files.)

C. Administrative Orders Approving Interpretations

Out of the entire list of around thirty-two interpretations approved by the Code Authority, and possibly two or three others to be mentioned below, only eighteen received approval by Administrative Order. One additional interpretation as above pointed out, had been placed in the Code by amendment.

In order to present a clearer picture of the nature of the interpretations approved by Administrative Order they are summarized at this point with brief comments, where appropriate, upon their significance:

Order No. 15-14-A, signed June 9, 1934, provided that:

"The words 'substantial classes' as used in Article II, subdivision (b) are to include 20 per cent of the total number of employees employed in any establishment.

"If, however, there is any individual case in which 20 per cent seems inequitable, the full facts of such cases are to be communicated to the committee provided for in Article II, subdivision (d), for their further consideration.

"This interpretation shall become effective with the first payroll following November 20, 1933, but shall not be retroactive."

ILLUSTRATION (NORTH)

How to arrive at the Amounts of Increase to be given to the Higher Paid Classes Under Article II - (b)

Total of Manufacturing employees in your factory	100	
Employees of "lowest paid substantial classes 20% of total".	20	
Average earnings of the said 20 employees in the "lowest paid substantial classes" for one full week immediately prior to July 14, 1933, which, for the purpose of illustration, we shall say are		$10.40

This was arrived at as follows:

8 earning	$9.00 -	$72.00
4 earning	10.00 -	40.00
8 earning	12.00 -	96.00
Grand Total		$208.00

Divided by 20 (number of "lowest paid employees")	$10.40
Code Minimum (Northern Section)	$14.40
Average difference therefore to be maintained is	$4.00
So that the wage of each worker whose earnings prior to September 11, 1933, was $10.40 or over, and up to $26.00, shall be increased by	$4.000
Those who had earned $27.00 shall be increased by	$3.00
Those who had earned $28.00 shall be increased by	$2.00
Those who had earned $29.00 shall be increased by	$1.00

The above illustration is to be used by you as a guide only.

If the average for the 20% "lowest paid substantial classes" is higher than that given in the illustration, then the average difference to be maintained would be correspondingly lower.

If the average for the 20% "lowest paid substantial classes" is lower than that given in the illustration, then the average difference to be maintained would be correspondingly higher.

ILLUSTRATION

(SOUTHERN SECTION)

How to Arrive at the Amounts of Increases to be Given to Higher Paid Classes Under Srticle II--Section (b).

Total of manufacturing employees in your factory.	100
Employees of "lowest paid substantial classes" 20% of total"	20
Average earnings of the said 20 employees in the "lowest paid substantial classes" for one full week immediately prior to July 14, 1933, which, for the purpose of illustration, we shall say are	$10.40

This was arrived at as follows:

8 earning	$9.00 -	$72.00
4 earning	10.00 -	40.00
8 earning	12.00 -	96.00
Grand Total	-	$208.00

Divided by 20 (Number "lowest paid employees")	$10.40
Code Minimum (Southern Section)	$13.32
Average difference therefore to be maintained is	$ 2.92
So that the wage of each worker whose earnings prior to September 11, 1933, was $10.40 or over, and up to $27.08, shall be increased by	$ 2.92
Those who had earned $28.00 shall be increased by	$ 2.00
Those who had earned $29.00 shall be increased by	$ 1.00

The above illustration is to be used by you as a guide only.

If the average for the 20% "lowest paid substantial classes" is higher than that given in the illustration, then the average difference to be maintained would be correspondingly lower.

If the average for the 20% "lowest paid substantial classes" is lower than that given in the illustration, then the average difference to be maintained would be correspongingly higher."

This interpretation respecting "substantial Classes" is significant because the Code Authority has based thereon its enforcement of the entire clause concerning wages above the minimum. The enforcement of Article II, Subdivision (b) has been the major administrative problem of the Code Authority, as will be shown more particularly in the Chapter "Labor Under the Code." It should be recorded here, however, that the Industrial Recovery Association has assailed the Administration and the Code Authority for acting under this interpretation, which the Industrial Recovery Association came to regard an outstanding instance of modification of the Code by power unjustifiably assumed.

Order No. 15-18, signed July 19, 1934, provided that:

> "Busheling on garments sold at retail direct to the consumer and returned for alterations by the consumer, is a non-manufacturing operation only when such operations are carried on in a separate department wholly distinct from manufacturing operations."

This interpretation relating to Article II of the Code allows compensation to non-manufacturing employees on a basis of a weekly minimum of $14.00 in the Northern area and $13 in the Southern area.

Order No. 15-19, approved July 19, 1934, provided that:

> "An employee whose work is divided between operations which are classified as manufacturing and non-manufacturing, shall be compensated on the basis of the number of hours worked on each of the several operations, on condition that the employer keep an adequate and proper record which will disclose the number of hours worked on each of the several operations, the amount of earnings received per hour, and if the work is on a piece work basis, the piece work rates."

This interpretation of Article II prevented the classification of a worker in a lowest paid class when employed on various types of work with differences in rates of pay. Article II makes no provision for a combination of two types of work in one job.

Order No. 15-20, approved July 19, 1934, provided that:

> "A worker who carries patterns to and from the racks, shall be classified as non-manufacturing."

In some plants this work is done by cutters who are skilled and who are paid relatively high wages. A carrier or cutter's assistant under this interpretation was definitely not a cutter, and could be placed on a weekly wage basis.

Order No. 15-21, signed July 19, 1934, provided that:

> "A person who checks the lay and/or cut and neither marks, cuts or fits, shall be classified as a supervisory employee."

This interpretation definitely removed the "checker" from the "cutter" class, which was paid on the hourly wage basis and was subject to the more rigid hour provisions of the Code.

Order No. 15-22, signed July 19, 1934, provided that:

"An employee who wets cloths for the off-presser shall be classified as a manufacturing employee and not as an off-presser."

This interpretation placed the "cloth wetter" in the class paid on a 40 cents per hour minimum basis, as against 75 cents for the off-presser.

Order No. 15-23, signed July 19, 1934, provided that:

"A worker who cuts a piece of lining from the bolt and uses a pattern as a guide, is a cutter within the definition."

This interpretation placed the lining cutter, as described, in the category of the "cutter," the highest paid manufacturing class recognized in the Code, and entitled to minimum pay of $1.00 per hour.

Order No. 15-24, signed July 19, 1934, provided that:

"Routing of work from cutting room to the various shops, after parts are assembled and tied, is a non-manufacturing occupation."

This allowed for payment to workers so engaged on the basis of the $14.00 minimum per week.

Order No. 15-25, signed July 19, 1934, provided that:

"A worker who is employed in the cutting of master patterns, if such work is done in a department wholly segregated from any manufacturing operations, is classified as a non-manufacturing employee. A person who cuts a paper pattern from a block pattern is a cutter within the definition."

Cutting master patterns is usually done before the manufacturing season begins, and precedes the manufacturing process.

Order No. 15-26, signed July 21, 1934, provided that:

"A worker engaged in the sponging and shrinking of cloth shall be classified as non-manufacturing; provided, however, that this work is done before the cloth is cut."

The processes mentioned here are done in separate departments of certain establishments and are technically not part of the manufacturing process, but a textile finishing process. The classification made, as for other non-manufacturing employees, makes possible pay on a weekly basis as provided in Article II.

Order No. 15-27, signed July 21, 1934, provided that:

"A worker who checks the lay after it has been marked by the cutter and/or cuts, and/or assembles or fits the various parts after they have been cut by the cutter is a cutter within the definition."

Checking of the lay requires a high degree of skill and the interpretation insures pay for a job equivalent to that of cutters.

Order No. 15-28, approved July 23, 1934, provided that:

"An employee engaged in the printing of joker tickets shall be classified as non-manufacturing."

This process is usually done in the stock room, is a printing operation separate and apart from the process of manufacturing clothing.

Order No. 15-29, signed July 23, 1934, provided for the compensation of workers cutting canvas and selicia as well as vest back and body linings at rates of pay customary to both processes--$1.00 per hour for vest backs, etc., and less for canvas and selicia--provided proper records are kept by the employer. This interpretation involves the same principle as No. 15-19 above.

Order No. 15-30, signed July 23, 1934, provided that:

"The earnings of any worker shall be determined on the basis of the number of hours worked in any one week."

Some factories had been paying workers on the basis of average number of tickets turned in during a four-week period. The Code Authority thought this could make possible evasion and thought tickets should be turned in weekly.

Order No. 15-40, signed December 7, 1934, provided that:

"Lining pressing, after off-pressing, is classified as off-pressing."

In some plants lining pressing is done before the lining is felled and hence is considered part of piece pressing, which is compensated for at a lower rate than off-pressing.

Order No. 15-41, signed December 7, 1934, provided that:

"Bundle boys and packers are to be classified as non-manufacturing employees."

Order No. 15-42, signed December 12, 1934, provided that:

"Cleaners and basting pullers are considered manufacturing employees."

Order No. 15-60, signed February 19, 1935, provided that:

> "Bushelmen, not including final inspectors or final examiners, are considered as Manufacturing Employees, except that bushelmen working on garments sold at retail direct to consumer and returned for alterations by the consumer are non-manufacturing employees when working in a separate department wholly distinct from manufacturing departments; final inspectors and final examiners are non-manufacturing employees."

The facts upon which the above interpretation was based are as follows:

> "Bushelmen repair or correct imperfections in the manufacture of a garment and as such perform work done by manufacturing employees in the shop. Final inspectors or final examiners merely determine whether the work has been properly done and inspect same; they do no repairing or correcting of imperfections and their work is frequently done in the stock room and not in the factory."

Suggested Interpretations Not Approved By Administration

Among the interpretations approved by the Code Authority March 2, 1934, is found the following:

> "Where two or more persons, engaged in the manufacture of clothing, perform productive labor in the manufacture of such clothing, such persons come within the province of the Men's Clothing Code."

The Administration did not see fit to recommend approval of this requested interpretation, giving as the reason, "***the foregoing attempts to impose an obligation on an entrepreneur to pay himself a minimum salary and is therefore objectionable. ***A restriction as to hours of labor would not be objectionable."* The Code Authority urged further consideration on the grounds that the lack of such interpretation would encourage or make possible cooperative organizations of serious consequence.

Finally, on January 29, 1935, the Code Authority followed the Administrator's suggestion and submitted an interpretation for approval which followed the wording of the above-quoted interpretation, except it provided: "***such persons shall be subject to the provisions with respect to the limitations of hours as defined by Article IV of the Men's Clothing Code." Acknowledging this new inter-

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(*) Letter dated September 17, 1934, from M. D. Vincent, Deputy Administrator, to George L. Bell, Executive Director, Men's Clothing Code Authority. (Men's Clothing Code Files).

pretation, the Administrator advised the Code Authority that such should take the form of an amendment to the Code and should be offered for public hearing. (*)

The Code Authority proposed on October 15, 1934, through the Administration Member the following interpretations which were designed to clarify the definition of "cutter:"

> "Cutters on cloth include those cutters that make lays and/or mark, cut by hand or machine, fit or chop."
>
> "Cutters on linings shall include only markers and hand or machine cutters of coat body lining and vest back lining."

N.R.A. Counsel advised the Administrator that "the effect of this interpretation is to amend the Code and it therefore should be noticed for opportunity to file objections or hearing." Even prior to this advice, when the Code Authority made inquiries about defining the term "cutter," the Administrator gave the opinion that the definition of the wage rate for cutters was clear and free from abiguity and that the interpretation already approved in Administrative Order No. 15-29 seemed to be a classification of work. It was further suggested that the "classification" might stand unless objections were made to it. (**)

In line with the action of the Administration just noted the proposed interpretation: "Under-collar cutting is not cutting as defined by the Code," was not given Administrative approval, although the records indicate that such interpretation received the approval of all Advisory Boards, Research and Planning, and the Legal Division. The Review Division made the suggestion that "As the term cutting is not defined by the Code it would be better to state that under-collar cutting is not cutting as understood by the industry."

On September 6, 1933, the Code Authority recommended for Administrative approval the following interpretation:

> "Non-manufacturing employees as used in Article II shall be construed to refer to the excepted employees mentioned in Article IV."

The "excepted" group included the repair crews, office force, etc. This interpretation appears to have been rejected on the basis of counsel's advice that such would amend the Code and hence could not be approved.

(*) Letter dated January 29, 1935, from Assistant Deputy Administrator Walter E. Woodford, Jr., to the Men's Clothing Code Authority. (Men's Clothing Code Files).

(**) Letter dated September 18, 1934, from Assistant Deputy Administrator W. D. Vincent, to B. H. Gitchell, Administration Member. (Men's Clothing Code Files).

The Cleveland, Ohio, N.R.A. Compliance Office on November 20, 1934, inquired of the Washington Compliance Office:

> "Is an outside salesman employed by a men's clothing manufacturer guaranteed a weekly salary or may he be paid strictly on a commission basis, How many hours may he work."

An official of the N.R.A. Textile Division advised in response to this inquiry that:

> "There is no official interpretation covering outside salesmen, but it is the opinion of this office that outside salesmen employed on a weekly salary or commission basis are not subject to the provisions of the Code." (*)

Various interpretations relating to the use of labels have been proposed by the Code Authority and submitted for Administrative approval. One such interpretation provided for the classification of employees sewing on labels as manufacturing or non-manufacturing depending upon location of the operation in the factory. The Review Division objected on the grounds that employees should not be classified by the location of identical operations. Another label interpretation was asked providing that labels should be attached to garments when in process of manufacture. Counsel of N.R.A. advised that this was not a proper subject for interpretation but should be submitted as a requested change in label regulations which could then be approved by the Administration.

Similar to the last-mentioned interpretation submitted for approval by the Code Authority was one providing that employers could arrange with employees in making up holiday time to put in 36 hours in any one week, with not more than 8 hours in any one day. This interpretation, submitted on October 15, 1934, was approved as an "explanation" under date of January 10, 1935. (**)

With respect to interpretations relating to Article II (b) it is worthy of note that on January 17, 1935, Deputy Administrator M. D. Vincent explained the term "existing" in this Article as follows: (***)

(*) Memorandum from S. H. Ourbacker, Acting Assistant Deputy Administrator, to N.R.A. Compliance Division. (Men's Clothing Code Files, under Classifications).

(**) Letter dated January 10, 1935, from S. H. Ourbacker, Acting Assistant Deputy Administrator, to George L. Bell, Executive Director, Men's Clothing Code Authority. (Men's Clothing Code Files).

(***) Memorandum dated January 17, 1935, from M. D. Vincent, Deputy Administrator, to R. W. Fuchs, N.R.A. Counsel. (Men's Clothing Code Files, under Code Exolanations).

"Any normal representative week before July 14, 1933, may be agreed upon--as a basis for pre-Code calculations in order to determine whether the differential as it then existed is being maintained in a normal representative post-Code week."

The Code Authority in its meeting of August 11, 1934, debated the advisability of issuing an interpretation concerning Sections (e) and (f) of Article II of the Code, which provided: "(e) ---minimum wage established in this Code shall constitute a guaranteed minimum rate of pay---;" and "(f) No increase in the amount of production or work shall be required of employees for the purpose of avoiding the benefits---prescribed by this Code---."

It was suggested that the following interpretation be agreed upon:

"It is proper therefore to infer that the employee shall not give any less work per hour than that given by him before the Code.

"If after the Code went into effect the piece rates in your shop were established so as to yield to the worker at least the minimum wage without requiring him to do more work per hour than he had done heretofore, he should be paid the actual earnings on the basis of the piece-work rates so adjusted."

Opposition to this interpretation was expressed by Mr. Hillman, labor representative on the Code Authority, for the reasons indicated in the following excerpt from the minutes of the meeting:

"Mr. Hillman opposed such interpretation, holding that an amendment to the Code was necessary; the Code providing for a factual minimum. He was frank in stating that if the amendment was proposed he would oppose such amendment because it would break down the minimum wage provisions of the Code. He said that the position of the union in the organized markets was made very clear and that the union at an Executive Session decided that they would not countenance any laydowns in any of the unionized markets. In the non-union markets, Mr. Hillman's opinion was that the employer could enforce production under the minimum wage by lay-off or discharge."

E. Classifications.

There is a record of only one instance of the official classification of a firm in connection with the Men's Clothing Code and that instance is covered by Administrative Order No. 15-43, relating to the United Woolen Company, Columbus, Ohio. (The only other classification order outstanding is Administrative Order No. 15-38, relating to "Cravenette," etc., discussed in Chapter I).

The United Woolen Company sold products to customers through outlet stores and advertised "custom-tailored suits, overcoats and uniforms." The Company had 100 factory employees, produced around 500 suits a week, and operated on a 35-hour schedule, paying a minimum wage of 40 cents per hour, and a minimum wage of 80 cents per hour to journeymen. The Code Authority asserted that the Company's methods are identical with those of "tailor-to-the-trade" firms under the Men's Clothing Code, while the Company insisted that it came under the Merchant and Custom Tailoring Code, although the Code Authority of the latter had rejected the Company's membership. The Administration ruled that the Company in its manufacturing activities fell under the Men's Clothing Code. Its outlet stores, however, it was ruled, fell under the Retail Code.

VI. COLLECTION AND USE OF STATISTICS

In keeping with the powers conferred upon the Code Authority by Article VIII of the Code, members of the Industry were required to furnish pay roll data "showing by sex and occupation, number of people employed, and the rates of wages paid," and production data showing the number and type of garments cut and made up." Since May 21, 1934, members of the Industry have been requested to furnish a "Summary of Payroll Reports" or a total of each page, in order to simplify the large and complex task of compilation of such data.

Under date of June 18, 1934, the Industry was advised that the Code Authority had entered into a cooperative arrangement with the Bureau of Labor Statistics of the United States Department of Labor for the collection of employment and pay roll data. It was explained that under this arrangement pay roll reports which had been previously sent to the Code Authority were to be sent to the Bureau of Labor Statistics, Washington, D. C., where the reports were to be tabulated and then forwarded to the Code Authority. Likewise, it was arranged that reports were to be filed on yellow sheets for office employees and on white sheets for manufacturing employees. This device was to simplify the compilation of the data and was to harmonize with the practice of certain states, thus making unnecessary the filing of many reports.

An arrangement similar to that described above, but respecting production statistics, was entered into with the Bureau of the Census. The Code Authority Committee on Statistics reported, under date of March 2, 1934, that: (*)

> "Early in January a joint arrangement was consummated between the Bureau of Census and the Men's Clothing Code Authority, whereby all production statistics would be gathered jointly. The Bureau of Census sends out the schedules in franked envelopes to all manufacturers on our list and on their list and receives the return in

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(*) Report of Committee on Statistics, dated March 2, 1934. (Men's Clothing Code Files, under Committee Reports.)

in franked envelopes furnished each manufacturer. The Bureau of Census has undertaken to tabulate this data and supply the results to the Men's Clothing Code Authority. Toward the expenses of this joint undertaking, the Bureau of Census contributes $2,360 a year and furnishes the franked envelopes. The Code Authority as its part pays $1,500 a year and furnishes the schedules. The schedules adopted are the schedules previously approved by the Men's Clothing Code Authority."

The data collected by the Code Authority was used chiefly in its enforcement of various Code provisions, especially those having to do with wages. The most extensive compilations of general data covering the Industry were made in connection with the proposal to add wage classifications to the original Code provisions.

VII. Procedure Authorized But Not Effected

It is observed that the Code Authority made no recommendations with respect to the setting-up of a Service Bureau for engineering, accounting, credit, etc., as it is empowered to do by Article XIII, Section D, Subsection (2) of the Code. Likewise, no action was taken under powers granted in Article XIII, Section B, Subdivision (5) which allows for establishment of an agency for supplying credit information. *

(*) Letter dated February 8, 1935, from David Drechsler, Secretary, Men's Clothing Code Authority, to C. H. James, Executive Assistant, Textile Division, N.R.A. (Men's Clothing Code Files)

CHAPTER V

LABOR UNDER THE CODE

I. HOUR PROVISIONS--ISSUES IN WRITING

The Men's Clothing Industry Code provided in Article IV that hours of work in the Industry except for certain designated groups "shall not exceed thirty-six (36) hours per week nor eight (8) hours per day." Also, "employees shall not operate productive machinery in the Clothing Industry more than one shift of thirty-six (36) hours per week."

The groups excepted from the 36-hour provision and for which it was provided that work shall not be "in excess of an average of forty (40) hours per week during any year beginning with the effective date," were "repair shop crews, engineers, electricians, firemen, office and supervisory staff, stock clerks, shipping clerks, truck drivers, porters, and watchmen." (Code Authority estimated that this excepted class totaled approximately 25,000 during 1934.)*

Article IV also provided that "tailoring-to-the-trade and manufacturers of uniforms shall be permitted overtime at regular rates during peak seasons, the number of hours and the number of weeks to be determined by the Men's Clothing Code Authority."

Both codes proposed for the Men's Clothing Industry favored a 40-hour week. Professor Merlove, adviser to the Clothing Manufacturers Association, asserted that:

> "Government figures on wage earners, hours and volume of physical output indicate clearly that weekly hour maximum should be a maximum of 40 hours per week. It is firmly believed that the proposed weekly 40-hour maximum standard attains one of the principal objectives of the Industrial Recovery Act, that of absorbing completely the existing unemployed workers normally attached to the Industry."**

Morris Kolchin, of the Research and Planning Division, NRA, reached the conclusion that "It is evident that they cannot all be reemployed, either on a 40-hour week maximum or a 35-hour week maximum, unless there is a considerable increased demand." Estimating

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(*) Letter dated January 23, 1935, from George L. Bell, Executive Director, Men's Clothing Code Authority, to S. H. Ourbacker, Acting Assistant Deputy Administrator. (Men's Clothing Code Files.)

(**) "Statistical and Economic Analysis Related To Sections II and IV of the Code of Fair Competition for the Men's Clothing Industry," by S. M. Merlove. Page 4. (Men's Clothing Code Files.)

that 48,000 were unemployed during the best month of 1933, Mr. Kolchin concluded that a 40-hour maximum might give employment to 8,150 unemployed, assuming an average of 27.5 hours per week worked in 1932, and that a 35-hour maximum might give employment to 19,503 people.*

In the course of hearings on the proposed codes, Labor Advisers urged the necessity of a shorter maximum hour provision than the 40 hours asked by members of the Industry. The final determination appears to have been influenced by the National Recovery Administration.

II. SPECIAL PROVISIONS FOR OVERTIME

The two codes as originally proposed for the Industry made no provision for the exceptions finally provided for the Tailors-to-the-Trade Division and Uniform Manufacturers, although the codes were in close agreement respecting the special provision for the "excepted" occupational groups above listed. The Tailors-to-the-Trade group from the outset insisted that selling direct to the consumer on special order necessitated special provision in hours. Accordingly, the codal provision agreed upon was a definite recognition that the business of Tailors-to-the-Trade is more highly seasonal than that of the Industry in general and does warrant longer hours during the peak season. Uniform manufacturers similarly demonstrated that theirs was a special order business and highly seasonal.

A. Overtime for Tailors-To-The-Trade.**

Following are summaries of the Code Authority's resolutions respecting overtime in the Tailors-to-the-Trade Division for the peak seasons of 1933 and 1934 and for the spring season of 1935.

> Fall 1933: After conferences with representatives of labor, the Men's Clothing Code Authority agreed to give Tailors-to-the-Trade extra hours on the basis of 40 hours per week for a period not to exceed six weeks of the Fall season of 1933 up to and not later than November 30, 1933, provided plants satisfied the Code Authority that they had taken on additional employees to full plant capacity.
>
> Spring 1934: Tailoring houses allowed to work 40 hours a week during the month of March for weeks ending March 16, 23, and 30. During months of April and May, tailoring houses may work up to 40 hours

(*) "Material Bearing on Men's Clothing Industry," by Morris Kolchin, Division of Research and Planning, NRA, dated August 10, 1933. (Men's Clothing Code Files.)

(**) Granted by the Code Authority in accordance with Article IV of the Code; see above and page 291.

a week during any four weeks of the two months in question, the privilege terminating on Decoration Day. Houses may petition Code Authority for privilege of working not in excess of 40 hours one additional week during the month of May. Same regulations with respect to such overtime as prevailed during the Fall season were agreed upon.

On March 2, 1934, the Men's Clothing Code Authority amended the Tailors-to-the-Trade resolution as follows:

"Due to the emergency the tailoring houses can work up to 48 hours a week during the weeks ending March 24, and March 31, it being understood, however, that rates of pay would be time and one-half for such hours worked in excess of an average of 42 hours during the two weeks ending March 31."

Ruling on extra hours for tailoring houses insofar as it relates to contract shops:

"The privilege to operate 40 hours under said conditions given to Tailors-to-the -Trade houses under authority of the resolution passed by the Code Authority is limited to inside shops. This privilege cannot be extended when a manufacturer is having his work done on special orders in contract shops because, if conditions warrant, the manufacturer can arrange to send additional work to additional contract shops. For that reason, the privilege of operating extra hours granted to Tailors-to-the-Trade houses refers only to inside shops."

Fall 1934: Tailoring houses allowed to work 40 hours per week any seven weeks beginning September 17 and ending December 25. Work under same general terms as applied to Fall and Spring for 1933 and 1934. This was approved by the Code Authority September 14, 1934.

Above resolutions were amended to provide for any eight weeks instead of seven weeks during the present season ending December 25. Same conditions and requirements to apply.

Under date of March 2, 1935, the Tailors-to-the-Trade group, applied to the Code Authority for overtime, stating a desire for 40 extra hours, beginning with March 15, and ending May 30 at the regular rates of pay; further requested that the privilege be limited to inside shops and that privilege be confined to those operating at plant capacity and to

shops working solely in the making of garments to individual measure.

This request for overtime during the Spring peak of 1935 was not approved in the particulars requested. The Executive Director of the Code Authority advised the Administrator on March 13, 1935, that the previous ruling (confining overtime to inside shops) had received protests from contractors and their employers, so that the Code Authority finally agreed upon the following resolution on March 12, 1935:

> "Resolved, that Tailoring-to-the-Trade houses may work 40 extra hours beginning with the 15th day of March, and ending the 30th day of May, 1935, at regular rates of pay providing, however, that no more than 8 hours in excess of 36 hours may be worked in any one calendar week.
>
> "A Tailor-to-the-Trade house which wishes to avail itself of this privilege shall certify to the Code Authority that it has taken on additional employees to the full plant capacity and that the shop or shops in which overtime is used is engaged solely in the making of garments to individual measure."

B. Overtime for Uniform Manufacturers.

Following are summaries of the Code Authority's resolutions respecting overtime for the Uniform Manufacturing branch of the Industry for the peak seasons of 1933 and 1934 and for the spring season of 1935.

> Fall 1933: After arrangements with labor, uniform manufacturers allowed overtime of four hours per week for eight consecutive weeks commencing September 25 at the regular rates of pay. To apply to manufacturers having their own shops or inside contract shops and in special cases where they have outside contract shops which work exclusively for the individual uniform manufacturer. In this connection, the Executive Director advises that "At the time this arrangement was entered into, it was the practice of the Code Authority to accept the recommendation of its Labor members."
>
> Spring 1934: On March 2, 1934, National Association of Uniform Manufacturers, after agreement with Labor Committee, requested a period of eight weeks of overtime at the rate of 40 hours per week

at the regular rates of pay. Overtime to begin April 2 and to end the week of May 26, applying to manufacturers' own shops and where contracting work is solely for them. Code Authority agreed with the provision that additional employees would first be taken on to full plant capacity before before petition for overtime would be granted, and such petition must conform to the requirements adopted by the Tailors-to-the-Trade Industry.

Fall 1934: Uniform manufacturers were given privilege to work eight consecutive weeks 40 hours per week, starting the week of September 24 and ending November 19 under the same general terms and conditions as for Fall 1933 and Spring 1934.

Under date of February 26, 1935, Harold W. Schwab, Executive Secretary, National Association of Uniform Manufacturers, petitioned for overtime beginning April 1, for a period of eight weeks out of twelve weeks following under the same general terms previously granted. It was explained that the preference for eight weeks out of twelve rather than consecutive weeks was in conformity to the Administrator's suggestion.*

C. Right of Code Authority to Determine Overtime Period.

It should be recorded here that certain clothing manufacturers questioned the right of the Code Authority to determine "just what shall be considered as their peak season." The Deputy Administrator, after receiving the complaint, advised the Code Authority that "until the Code is amended to care for this situation, the Code Authority have all of their regulations in this connection approved by the NRA prior to their attempt to enforce them."**

(*) Letter dated March 8, 1935, from Morris Greenberg, Executive Director of the Men's Clothing Code Authority, to Assistant Deputy Administrator Walter E. Woodford, Jr., (Men's Clothing Code Files.)

(**) Letter dated November 3, 1934, from S. H. Ourbacker, Acting Assistant Deputy Administrator, to George L. Bell, Executive Director, Men's Clothing Code Authority. (Men's Clothing Code Files, under Employment.)

III. EXEMPTIONS AND DENIALS OF EXEMPTIONS

On February 23, 1935, the Men's Clothing Code Authority applied to the Administrator for exemption from the hours provisions of the Code for the entire Industry excepting Tailors-to-the-Trade and Uniform Manufacturers. It was requested that 40 hours per week be allowed for five consecutive payroll weeks beginning March 4, 1935, and ending April 6, 1935. In requesting the exemption, the Executive Director of the Code Authority advised that the (a) late delivery of woolens and (b) excess of fancy models which have unbalanced highly skilled sections, were reasons justifying the overtime. The Administrator granted a ten-day emergency exemption pending the submission of a formal order to the various Adnivory Boards. The formal order No. 15-61, dated March 12, 1935, was later issued, granting the exemption as requested. A supplementary Order No. 15-65, dated March 22, 1935, granted to the Tailors-to-the-Trade houses eight hours overtime, in addition to the peak season overtime already granted, to be used between April 6 and April 19, 1935, provided that wages be paid at the rate of time and one-half.

Certain protests arose concerning the general hours exemption granted the Men's Clothing Industry for the period above indicated. Colonel F. M. Curlee, Counsel for the Industrial Recovery Association, indirectly expressed his disapproval of at least the manner in which the exemption was handled by addressing the following questions to the Deputy Administrator on February 27, 1935, having read of the proposed request for exemption in the Daily News Record:

> "Was any notice given to the Industry of an application for this exemption and have there been any hearings held? If so, will you tell me where I can get the transcript of the record of the hearing. Have you any knowledge of whether or not certain institutions have been operating on a schedule of more than 36 hours in anticipation of an order authorizing it?"

Later, on March 15, 1935, Colonel Curlee, expressing further his opposition to the granting of the overtime period to the entire Industry, wrote to Deputy Administrator Vincent as follows:

> "Seasonal peak production is a curse of the Men's Clothing Industry and prevails to the greatest extent in the Code Authority area. Members of our Association, at no little inconvenience, risk, and expense, made their plans for continuous production on a 36-hour basis. It affords an unfair competitive advantage to producers in the Code Authority area to permit them to evade the hazards of merchandising and then receive an indulgence which legalizes their historical vice of peak production. If this is to be regarded as a precedent and is to become an established practice, certainly the method should be changed so that producers not enjoying the confidence of the Code Authority should be

> advised a sufficient time in advance to avail themselves of the benefits of these suspensions of the law.
>
> "I am instructed by the Industrial Recovery Association of Clothing Manufacturers to protest to you against this so-called 'stay' as vicious in principle and as having been improperly granted without notice to the industry."

The Administrator replied to Colonel Curlee on March 5, 1935, advising of the granting of an emergency exemption pending approval of a formal order, adding, "no hearing on the application was held for the reason that the overtime exemption was granted for the entire industry...." Again, on March 23, 1935, Deputy Administrator Vincent stated in a letter to Colonel Curlee:

> "The facts before the National Recovery Administration appear to clearly justify the exemption. Briefly, for your information, the situation appears to be that production in February sharply increased over January, this year. The employment figures are perhaps the best indication of the industry's need for overtime. At this time employment is at the highest peak since approval of the Code.
>
> "My recommendation of approval of the exemption is based broadly upon the fact that neither the Code Authority nor the National Recovery Administration should retard or limit production in the face of market demands."(*)

A more direct protest against the granting of the general hours exemption came from the Philadelphia Joint Board of the Amalgamated Clothing Workers of America. This group urged that the Order be withdrawn and that no repetition of such action take place in the future. Reasons for this stand were expressed as follows:

> "...There is no shortage of labor because we are in a position to supply all help necessary from our unemployed membership and whereas there are a number of firms in the city not availing themselves of these extra hours, among them being three of our largest manufacturers... we feel the granting of a forty hour week

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(*) Letter dated March 23, 1935, from M. D. Vincent, Deputy Administrator, to Colonel F. M. Curlee, Industrial Recovery Association of Clothing Manufacturers. (Men's Clothing Code Files, under Employment, Overtime Exemptions.)

to the Men's Clothing Industry for even a temporary period of two to five weeks is a move on the part of same employers to introduce the ofrty hour week."

Whether or not the suspicions of this labor group were warranted is not known. The files do not show any evidence that members of the Industry were desirous of a change in the hour provisions of the Code. There were to be sure, individual firms which desired exceptions and exemptions, which situation is the subject of the following division of this Chapter.

A. Exemptions From Hour Provisions Granted Small Groups and Individual Firms.

It is significiant that the Men's Clothing Code Authority consistently took the position that it did not have the authority to grant exemotions under the Code. All requests for hours exemptions, as well as others, were directed to the Administration, sometimes with a recommendation from the Code Authority.

In the survey of hours cases below, it is important to remember that all hours exemptions both granted and requested have had to do with employee hours. It is of course understood that a request for or a grant of exemption from employee hours automatically carries a request for or exemotion from machine hours. There is not discovered, however, in the Administration's files a request for exemption from that section of Article IV of the Code which provides, "Employers shall not operate productive machinery in the Clothing Industry more than one shift of thirty-six (36) hours per week." In the Men's Clothing Industry prior to the Code, the single shift was customary and the peak seasons were taken care of by long employee-hours. Even with the codal restriction of employee hours to 36 per week, there did not develop in the Industry a demand for a double shift.

Order No. 15-8, dated February 23, 1934, granted four hours overtime, upon the recommendation of the Code Authority, to five New Orleans, La., firms, namely: Leon Godchaux Clothing Company, Haspel Bros., Inc., Famous Sternberg, Inc., Hirsch & Baar, and A. Solomon. These firms were manufacturers of summer clothing. Reasons for the granting of the exemotion were: (1) Firms were in competition with men's work clothes manufacturers working under the Cotton Garment Code, which had a maximum work week of 40 hours (at that time). (2) Firms accustomed to 58 hours per week and new 36-hour schedule would create shortage in labor market. (3) No unemployment in this branch of the Industry, and no surplus labor market.

Order No. 15-59, dated February 12, 1935, terminated Order No. 15-8 discussed above. This termination was effected at the request of the Men's Clothing Code Authority on the grounds that the exemption had been granted originally to allow the New Orleans firms to compete with the Cotton Garment people on a comparable basis of 40 hours and, "now that the prevailing hours under the Cotton Garment

Code have been changed to 36, exemption from the Men's Clothing Code with like hours is unnecessary to fair competition."

Order No. 15-11, dated April 27, 1934, provided for exemption of all Puerto Rican manufacturers from hours and wage provisions of the Men's Clothing Code. For the two or three firms shipping to Continental United States, 40 hours maximum per week was allowed. (For firms not shipping to Continental United States, complete exemption from this Code was provided.) The Puerto Ricans, in petitioning for relief, argued that workers in their country could not produce comparably to workers on the mainland; that workers with approval of the Commissioner of Labor of Puerto Rico were satisfied with much lower wage and hour standards than provided by the Code; that linen suits produced did not offer unfair competition to makers in the United States.

Representatives of the Men's Clothing Code Authority favored the general exemption for Puerto Rico, and Executive Director Bell, on March 2, 1934, advised the Code Authority:

> "...The volume of clothing exported from Puerto Rico appears to be grossly exaggerated and the reports of the Bureau of Foreign and Domestic Commerce were apparently incorrect. We are informed that the Government report included men's underwear as men's clothing. The indications are that at present there is no real competition from Puerto Rican markets."

By Order No. 15-54, dated January 16, 1935, the provisions of Order No. 15-11 were extended to June 1, 1935. The Code Authority gave approval with the suggestion that the Order should not be made permanent and that by June 1 a plan could be worked out on a permanent basis.

Order No. 15-12, dated May 10, 1934, granted the Goodall Company, of Knoxville, Tenn., the privilege of working four hours overtime weekly until July 1, 1934. This Company engaged in the manufacture of Palm Beach clothing and was granted the exemption upon fundamentally the same grounds as was granted the exemption to the New Orleans manufacturers discussed under Order No. 15-8. above.

On October 17, 1934, the Perry and Juden Company, New Orleans, was granted an emergency exemption by telegram, allowing the Company to work 15 hours overtime during the eight days from the date of the telegram. The request for this exemption came from the Uniform Manufacturers Division of the Men's Clothing Code Authority, and was for the purpose of enabling the Company to complete its contract with the Louisiana State University which requested uniforms for a demonstration planned for a certain day.

The Louisiana State Director of Compliance objected to the exemption under date of October 25, 1934, asserting that undue political influence had been exerted by Senator Huey Long. The Administrator in replying to this criticism explained the origin and nature of the

request for exemption, saying that Senator Long's name had not appeared in the transaction. (*)

On January 25, 1935, the Division Administrator granted a ten-day emergency exemption to Joseph & Feiss Co., Cleveland, Ohio, permitting the Company to work fifteen employees 8 hours daily for 6 days for a period not to exceed two weeks. This exemption was granted because incorrect sewing machines had been supplied the Company, and had delayed operations and handicapped employment throughout the entire factory.

For some reason, the formal Order approving the exemption for a two-week period as requested, from January 25, 1935, up to and including February 7, 1935, was mailed out to Joseph & Feiss under date of February 18, 1935. Relative to which, Mr. Paul Feiss wrote "while appreciating the evidence of cooperation of the Recovery Board, regret that the authorization arrived too late to be of any help to us, so that we did not avail ourselves of the permission granted. (**)

On March 2, 1935, the Division Administrator granted by telegram a ten-day emergency exemption to DeMoulin Brothers, Co., Greenville, Ill., permitting the company to work twenty-five employees of various occupations for forty hours per week for a period of three weeks beginning March 4, 1935, pending formal ruling. This exemption was extended by formal order No. 15-62, March 3, 1935, on the grounds that the company had secured several orders for band uniforms requiring immediate delivery

Order No. 15-60 A, dated March 7, 1935, granted to Bradford College Clothes Co., New York City, exemption from the hours provisions of the Code in order that the Company be enabled to compete on time a CCC contract for 20,000 pairs of trousers. It was asserted that this contract was delayed in fulfillment because of a breakdown in machinery.

On March 15, 1935, the Division Administrator granted to the McIntosh Studio Clothes Manufacturers, Los Angeles, California, an emergency exemption of ten days by telegram. The petitioner claimed and was supported by the Label Review Officer for the Pacific Coast, that special motion picture wardrobe orders created an emergency.

(*) Letter dated November 1, 1934, from Deputy Administrator Dean G. Edwards, to Director E. J. Gay, State Director of Compliance for Louisiana. (Men's Clothing Code Files.)

(**) Letter dated March 6, 1935, from Paul Feiss to National Recovery Administration. (Men's Clothing Code Files.)

This exemption, by Order No. 15-63, dated March 15, 1935, was extended to allow four hours weekly overtime at time and one-half, or the privilege of an extra shift at the usual rates of pay.

Order No. 15-64 A, dated April 12, 1935, granted to Sheuerman Bros., Inc., Des Moines, Iowa, an exemption from the codal hours provisions for ten days, because of a breakdown of certain machinery. This exemption allowed the Company to work twelve pressers one hour overtime each day for ten days at time and one-half pay.

Order No. 15-65 A, dated May 3, 1935, granted to H. A. Seinsheimer Co., Cincinnati, Ohio, the privilege of working twelve basters, twenty-five hand workers, including fellers, ten pressers and ten operators, six hours over time on Saturday, May 4, 1935, on sample work only, providing time and one-half was paid for overtime.

Order No. 15-65 B, dated May 11, 1935, granted to Rose Brothers, New York City, the privilege of working fifty cutters one hour overtime each day for ten days, provided time and one-half be paid for overtime. The request for exemption was based on threatened cancellations due to delay in cutting. It was asserted that the Comapny normally employed 50 cutters, but now had 100 with no room for expansion of the plant.

Order No. 15-68 A, dated May 22, 1935 granted to Morton Bros. New York City, the privilege of working its entire force one hour overtime each day for a ten-day period beginning May 23, provided time and one-half be paid for overtime. This Order, which carries no reason for the granting of the exemption, was recommended by the Code Authority and was approved by the Labor Advisory Board.

Order No. 15-68 B, dated May 22, 1935, granted an exemption to the Champion Pants Manufacturing Co., New York City, allowing the Company to operate its cutting room at Perkasie, Pa., one hour overtime each day for a ten-day period beginning May 23, 1935, provided time and one-half be paid for overtime. This Order states no reason for the exemption, but carries the recommendation of the Code Authority and the Labor Advisory Board.

B. Denial of Requested Exemptions from Hour Provisions.

The Sigmund Eisner Co., of Redbank, New Jersey, on November 15, 1934, requested an exemption from the hours provisions of the Code for a period of two weeks beyond the eight weeks overtime period accorded the Uniform Manufacturers. The request for extension of the overtime period was based solely on the contention that the textile strike had delayed delivery of piece goods. On March 16,1934, the Administrator advised that the condition cited by the applicant applied to the entire Industry and constituted no grounds for special consideration.

Order No. 15-47, dated January 3, 1935, denied the application of the William Bradford plant of Kling Bros. & Co., Chicago. The

Company's appeal was based on the asserted impossibility of meeting orders with lack of experienced workers in Davenport, Iowa. The Code Authority opposed this request for exemption on the grounds that the Company had deliberately left Chicago where it had operated for several years and where a surplus of labor existed. Code Authority argued that surplus work could be sent to available contract shops and that to grant the Company's request would create a precedent in the direction of breaking down the codal provisions. When requested by the Administration, the Company failed to support its contention that more continuous employment was afforded at the Bradford plant than prevailed throughout the Industry.

Order No. 15-56, dated January 30, 1935, denied to N. Snellenberg & Co., of Philadelphia, Pa., a request for four hours overtime for period from November 22, 1934, to December 15, 1934. The Company gave as reasons for the request "several municipal contracts for police overcoats are now past due," and that the plant had been running to capacity since the beginning of the season. The Code Authority opposed this request, stating that the Company had already had 40 hours for eight consecutive weeks as allowed other members of the Uniform branch of the Industry, and that no special grounds existed to justify an extension.

Order No. 15-57, dated February 2, 1935, denied to Wender and Goldstein, Inc., New York City, a request for four hours overtime for four weeks from December 5, 1934. No reasons for denial are given in the Order. The Code Authority favored denial, however, on the grounds that there was an "adequate labor supply in New York City to meet any emergency--no special circumstances seem to warrant exemption."

Order No. 15-37, dated November 13, 1934, denied overtime to the Neptune Manufacturing Co., Louisville, Ky., on the grounds (1) Mis-statement of fact by the applicant as to permission granted by the labor union; (2) Failure to show facts indicating that conditions or circumstances were exceptional; (3) Setting of precedent of granting overtime will tend to break down codal provisions. This denial was approved by the Legal Adviser with the suggestion that the applicant be informed of his rights and proper procedure and that the Code Authority was remiss in not so advising the applicant. The Research and Planning Division suggested that the applicant be given opportunity to present information sufficient to form basis of judgment.

On January 19, 1935, the E. H. Smith Co., of Bethel, Ohio, petitioned for an hours exemption, claiming that lack of off-pressing machines necessitated additional employees to work overtime. Company also stressed need of employing "green" help from time to time. The petition was made direct to Washington but upon reference to the Code Authority elicited the recommendation that petition be denied. Administrator advised of method of appeal to Administration and suggested that the plant would be investigated by the Code Authority. When the petitioner advised on February 28,

1935, as to the impossibility of specifying his exact requirements for overtime, the administrator then called attention to the fact that the entire Industry was being granted overtime and it was hoped that this would solve the Company's difficulty in production. The Company was further advised that the learner problem had not been settled by N.R.A.

Order No. 15-16, dated May 14, 1935 denied overtime to Kurtzman Bros., Los Angeles, California. The applicant claimed that it could not use the extra hours previously granted the Industry; also claimed that its season did not correspond to that of Eastern markets. The Code Authority had recommended denial on the grounds that the Company was confronted with no peculiar conditions placing it at a disadvantage with other members of the Industry and that the overtime granted the Industry had been used by this firm.

Order No. 15-67, dated May 17, 1935, denied the North Chicago Clothing Company permission to operate a coat shop forty hours for one week. The Company had based its request for overtime on the need to meet a number of special rush orders. The Code Authority advised the Administration that the applicant was successor to a company held to be in violation of wage provisions of the Code.

IV. WAGE PROVISIONS AND ISSUES IN WRITING

The Men's Clothing Code as adopted on August 26, 1933, provided in Article II, for a minimum wage of 40 cents per hour for manufacturing employees in the Northern area and 37 cents in the Southern area; for non-manufacturing employees a minimum wage of $14 per week in the Northern section and $13 in the Southern section. Employees working on single knee pants were to be paid at the rate of 37 cents per hour. A minimum wage for cutters was established at $1.00 per hour, and a minimum for off-pressers at 75 cents per hour. It was further provided that "the existing amounts by which wages in the higher-paid classes, up to classes of employees receiving $30 per week, exceed wages in the lowest-paid substantial classes shall be maintained."

In sub-section (d) of Article II it was provided that the Code Authority "may appoint a committee to supervise the execution of the foregoing provisions."

The above provisions of the Code respecting rates of pay were amended as follows: On December 15, 1933, by Executive Order, Article III of the Code was amended to allow the employment of learners for a period of three months after December 11, 1933, to be paid not less than 70 per cent of the Code minimum wage; on the same date it was provided that handicapped workers may be employed at a compensation not less than 70 per cent of the Code minimum wage. The proportion of such persons was not to exceed 5 per cent of the total employed in any one plant, and all exemptions were subject to review and denial by the Code Authority.

On December 18, 1933, the wage provision regarding workers on knee pants was deleted and a provision was substituted therefor providing a wage for such workers of 37 cents per hour in the Northern area, and 34 cents in the Southern area. On the same date, it was provided that employees working on wash suits of 100 per cent cotton content be paid 34 cents per hour in the Southern area, and 37 cents in the Northern area. The wage rates respecting cutters and off-pressers were similarly changed to provide a rate of $1.00 per hour and 75 cents per hour respectively in the Northern area as against 85 cents and 65 cents respectively in the Southern area.

The two codes first prepared for the Men's Clothing Industry were fairly well in agreement respecting minimum wages, but their positions were irreconcilable with regard to wages above the basic minimum. The Code proposed by the Clothing Manufacturers Association recommended a basic minimum of 35 cents per hour in the Northern area, and 32½ cents in the Southern area; a minimum for cutters at the rate of 80 cents per hour; and that "existing amounts by which wages in the higher-priced classes, up to workers receiving $30 per week, exceed wages in the lowest paid classes, shall be maintained.". The Industrial Recovery Association's proposed Code recommended that wages of all employees be raised 20 per cent above the rates prevailing July 1, 1933; a minimum of 35 cents per hour in the North and 32½ cents per hour in the South. It was suggested also that apprentices be employed at a minimum wage not less than 75 per cent of the established minimum; payments at the rate of time and one-half was recommended for repair crews, engineers, and similar groups for overtime in excess of forty hours per week.

With respect to wages above the minimum, the Industrial Recovery Association would not yield, but protested the general provision of the opposing group for the "higher paid classes" on the ground "that it was vague, indefinite, and uncertain, and incapable of definite interpretation and application." (*) The proponents of the finally adopted provision for wages above the minimum replied, together with the Deputy Administrator in charge, that where the application of this provision would result in hardship, the Code Authority could give relief. This suggestion was objected to on the ground that the higher wage bracket of each manufacturer would be dependent upon the discretion of the Code Authority.

In support of its suggested provision for apprentices, the Industrial Recovery Association argued that there is little or no trained labor to be recruited in the smaller communities and

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(*) Statement of Industrial Recovery Association of Clothing Manufacturers, February 2, 1935. Page 9. (The "Green Book" -- Men's Clothing Code Files).

that some allowance in wages should be made for the training of raw beginners. (*)

In the final determination of the Code wage rates, the Deputy Administrator seems to have relied principally upon a Report of the Research and Planning Division, which is mentioned in the Deputy's recommendation of the Code for approval. The Research and Planning Division had concluded that the establishment of a 40-cent minimum hourly rate in conjunction with a 36-hour week would result in a 28 per cent increase in the total payroll of the Industry, estimated to represent an increase of around $100,000,000 a year. (**) The Clothing Manufacturers Association had estimated on the other hand that a 35-cent minimum wage combined with a 40-hour week (allowing for a possible rise of 50 per cent in raw material prices) would approximate a 35 per cent rise in the cost of suits. (***)

A. Proposed Amendments of Wage Provisions.

During the period of February 2-4, 1935, hearings were held in Washington on two separate amendments, each classifying workers for the purpose of setting up additional minimum wage rates. One amendment proposed by the management members of the Code Authority classified workers in the Industry into about fifteen classes, with separate wage scales ranging from 40 cents per hour (the existing minimum) to $1.00 per hour. The labor members of the Code Authority proposed an amendment similar in principle to management's proposal, but providing for about thirty different classes of workers, with separate wage scales ranging from 40 cents per hour to $1.00 per hour. Management's proposal, but not labor's, included a twenty per cent tolerance for sub-normal workers.

To understand the nature and extent of worker classification, which would have resulted with the adoption of management's proposal, it should be noted that, excluding cotton suits and single pants, where a 37-cent rate prevailed for all operators (except cutters and off-pressers), only five minimum rates of pay would

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(*) Statement of Industrial Recovery Association of Clothing Manufacturers, February 2, 1935. Page 107. (The "Green Book" --Men's Clothing Code Files).

(**) "Material Bearing on the Men's Clothing Industry," August 10, 1933, by Morris Kolchin. (Men's Clothing Code Files.)

(***) Statistical and Economic Analysis Related to Sections II and V of "Code of Fair Competition for the Men's Clothing Industry", by S. H. Nerlove. Page 45. (Men's Clothing Code Files.)

result, including those provided for in the Code, namely: $1.00, 75 cents, 65 cents, 50 cents, and 40 cents. The Code Authority estimated that of the manufacturing employees classified by type of operation and by management's amendment proposal, the 40-cent minimum was applicable to 34.9 per cent of the total, the 50-cent minimum was applicable to 51.8 per cent, the 65-cent minimum was applicable to 3.5 per cent and the 75-cent minimum and above was applicable to 9.8 per cent.

It was generally agreed that the proposals to add new minimum wage rates to the Men's Clothing Code arose from the considerable difficulty which the Code Authority experienced in attempting to enforce Article II (b), which dealt with "wages in the higher-paid classes." The management members of the Code Authority, in support of their amendment, submitted statistical data purporting to prove that unfair competition in labor costs was occuring in the Industry at wages above the minimum. It was indicated that (*) "although the number of workers receiving the minimum for all establishments combined is 19.7 per cent, some establishments pay over 50 per cent of their workers only the minimum, and in individual cases as many as 80 per cent are at the minimum." The Code Authority further argued that the new rates were necessary as an administrative means of enforcing Article II (b); would make unnecessary continued reference to July, 1933, for purposes of estimating wages; would simplify compliance in that employers and employees (through posted rates) would be definitely informed as to proper wage rates; would be applicable to firms organized subsequent to adoption of the Code, not subject to Article II (b). It was additionally asserted that the wages as proposed would affect only a small proportion of the Industry and would have no effect on clothing prices and that the rates were not designed to equalize hourly wage rates throughout the Industry.

The minimum rates proposed by the labor group of the Code Authority agreed in principle with the proposals of the management group. Labor, however, favored a higher average minimum than did management, and desired the recognition of more occupational classes including workers in pants establishments. Labor expressed a fear that the tolerance provision of management's proposal would result in an unfair disciplinary device.

The arguments presented against these amendments by the Industrial Recovery Association were that the plan for classified rates was contrary to general N.R.A. policy; would place a burden in wage costs upon certain members of the Industry; would favor unionized contract establishments as against integrated non-union establishments; would increase the cost of clothing to consumers and react against the Industry as a whole; that present lower wage rates make for greater continuity of employment; would stimulate further mass

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(*) See Transcript of Hearing on Amendments to Men's Clothing Code, February 2--4, 1935.

production by mechanical improvements to disadvantage of workers; and would make for added confusion in attempting to adjust an hourly base rate to piece rate method of payment prevailing in the Industry. (*)

In this February 2--4, 1935, wage hearing, the Industrial Recovery Association, in addition to opposing the amendments offered by the groups on the Code Authority, recommended counter amendments of their own to provide: (1) "that all wage provisions other than that for the minimum be deleted." (2) "that Article II be so amended as to make the definition of North and South conform with economic, historic and geographic realities."

Regarding the last-mentioned amendment proposal, it should be recorded that the issue of the North-South areas had been raised before in this Industry. The codal definition placed the State of Virginia in the Northern area. As early as September, 1933, we find the Friedman-Harry Marks Clothing Company, of Richmond, Virginia, protesting this arrangement on the grounds that the system of production in Virginia is different from that in the North, and that trained workers were not so plentiful in Virginia as in Northern cities. (**) Similar protests were lodged with the Administration by Sam Finkelstein and Company, Norfolk, Virginia.

Following the February 2--4, 1935, hearing on the proposal to amend the wage provisions of the Code, there was submitted on April 4, 1935, to the various Advisory Boards of N.R.A. for consideration and recommendation, the following Order designed to put into effect upon Administrative approval new codal wage provisions:

"AMENDMENTS

"ARTICLE II OF THE CODE OF FAIR COMPETITION FOR THE MEN'S CLOTHING INDUSTRY BE AMENDED TO READ AS FOLLOWS:

"Section A-

"1. The minimum wage which shall be paid by employers in the clothing industry to their employees employed as cutters, shall be at the rate of one dol-

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(*) See "Statement of Industrial Recovery Association of Clothing Manufacturers" ("Green Book") before the N.I.R.B. and W.D.Vincent, Deputy Administrator, February 2, 1935. (Men's Clothing Code Files.)

(**) Letter dated September 14, 1933, from Senator Harry E. Byrd, to Deputy Administrator Lindsay Rogers. (Men's Clothing Code Files.)

lar ($1.00) per hour when employed in the northern section of the industry, and at the rate of ninety cents (90¢) per hour when employed in the southern section of the industry.

"2. The minimum wage which shall be paid by employers in the clothing industry to their employees employed as cutters of men's wash suits of one hundred per cent (100%) cotton content, when employed in the southern section of the industry, shall be at the rate of eighty-five cents (85¢) per hour.

"3. The minimum wage which shall be paid by employers in the clothing industry to their employees employed as off-pressers, shall be at the rate of seventy-five (75¢) per hour when employed in the northern section of the industry, and at the rate of sixty-seven and a half cents (67½¢) per hour when employed in the southern section of the industry.

"4. The minimum wage which shall be paid by employers in the clothing industry to their employees employed as off-pressers of Men's wash suits of one hundred per cent (100%) cotton content, when employed in the southern section of the industry, shall be at the rate of sixty cents (60¢) per hour.

"5. The minimum wage which shall be paid by employers in the clothing industry to their employees engaged in operations requiring the use of a machine for sewing, basting, padding, tacking, stitching, buttonhole making or button sewing, or of any other machine requiring the use of thread, shall be at the rate of fifty-five cents (55¢) per hour when employed in the northern section of the industry, and at the rate of fifty-cents (50¢) per hour when employed in the southern section of the industry.

"6. The minimum wage which shall be paid by employers in the clothing industry to their employees employed in any operation (other than off-pressing) requiring the use of a hand pressing iron or a pressing machine, shall be at the rate of fifty-five cents (55¢) per hour when employed in the northern section of the industry, and at the rate of fifty cents (50¢) per hour when employed in the southern section of the industry.

"7. The minimum wage which shall be paid by employers in the clothing industry to their employees employed in all hand operations, shall be at the rate of fifty-five cents (55¢) per hour when employed in the northern section of the industry, and at the rate of fifty cents (50¢) per hour when employed in the

southern section of the industry, (following to be printed in italics) except thread-makr cutting; turning, paring or trimming away of surplus materials; finishing or felling of any kind; buttonhole marking, cutting and making; button marking, button sewing, ticket sewing; cleaning; basting pulling; marking; measuring, and that as to such excepted operations the minimum wage which shall be paid by employers in the clothing industry to their employees, shall be at the rate of forty cents (40¢) per hour when employed in the northern section of the industry, and at the rate of thirty-seven cents (37¢) per hour when employed in the southern section of the industry. It is intended that 'paring or trimming away of surplus materials' and 'marking, measuring' shall not include shaping fronts, collars and bottoms.

"8. The minimum wage which shall be paid to all manufacturing employees (other than cutters and offpressers hereinbefore provided for), working on men's wash suits of one hundred per cent (100%) cotton content, shall be at the rate of thirty-seven cents (37¢) per hour when employed in the northern section of the industry, and at the rate of thirty-four cents (34¢) per hour when employed in the southern section of the industry.

"9. The minimum wage which shall be paid by employers in the clothing industry to any of their manufacturing employees who have not been hereinbefore classified, and have not been identified by the operations to be performed by them, or the nature or kind of garment upon which they are employed, shall be at the rate of forty cents (40¢) per hour when employed in the northern section of the industry, and at the rate of thirty-seven cents (37¢) per hour when employed in the southern section of the industry..

"10. The minimum wage which shall be paid by employers in the clothing industry to any of their non-manufacturing employees, shall be fourteen dollars ($14.00) per week when employed in the northern section of the industry, and thirteen dollars ($13.00) per week when employed in the southern section of the industry.

"11. 'Southern section' of the industry shall included Alabama, Arkansas, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Florida. The 'northern section of the industry shall include all other states in the United States.

"Section B -

"The provisions for the minimum wage established in this Code shall constitute a guaranteed minimum rate of pay in connection with both a time rate or a piece-work basis of compensation.

"Section C -

"No increases in the amount of production or work shall be required of employees for the purpose of avoiding the benefits to employees prescribed by this Code in respect of wages and hours of employment. All requirements in respect of such increases shall be reported to the Men's Clothing Code Authority.

"Section D -

"Persons whose earning capacity is limited because of physical or mental handicap, may be employed at a wage below the minimum established by this Code, provided--

"1. That they shall be paid proportionately no less than the other employees receive for similar work, but in no case shall their compensation amount to less than seventy per cent (70%) of the amount required by the Minimum Wage Provisions of this Code.

"2. That the proportion of such excepted persons to the total number of employees in any plant shall not at any time exceed five per cent (5%).

"3. The Code Authority shall have the right to investigate and disallow any claims for exemption. The decision of the Code Authority shall be final and the employer shall comply therewith, unless and until the National Industrial Recovery Board shall upon appeal by an employer or employee, disapprove the decision of the Code Authority.

"4. That where it has been the custom of an employer to maintain a proportion of such employees in excess of five per cent (5%) of the total number of employees in his plant, the Code Authority may, upon application and proof, allow the employer to employ more than five per cent (5%) of excepted persons, subject to these provisions.

"5. That on or before the tenth (10th) day of each month, the employer shall prepare and transmit to the Code Authority a list for the preceding month of such excepted persons, stating names, class of occupation, wage rating, length of service, and reasons for exception.

"6. These exceptions shall not be used by employers as a device to evade the provisions of this Code.

"7. 'The Code Authority shall report to the National Industrial Recovery Board within three (3) months, and from time to time thereafter, as to the effect of these provisions, both generally and in cases of individual hardship, so that the National Industrial Recovery Board may determine, in its discretion, whether or not the provisions of this amendment shall be continued or changed.'

"Section E. -

"Employees employed in the operations included in Subdivisions 5, 6, and 7 of Section A of this Article, whose speed of production is subnormal and who are rated by the employer as 'slow workers', may be employed at a wage below the minima established in said Subdivisions 5, 6, and 7 of Section A of this Article, provided:

"1. That they shall be paid proportionately no less than the other employees receive for similar work; but in no case shall their compensation amount to less than forty cents (40¢) per hour when employed in the northern section of the industry, and thirty-seven cents (37¢) per hour when employed in the southern section of the industry.

"2. That the proportion of such 'slow workers' to the total employed on operations included in Subdivisions 3, 5, 6, and 7 of Section A of this Article shall not at any time exceed twenty per cent (20%) of such total employed in the making of coats, and twenty per cent (20%) of such total employed in the making of vests, and twenty per cent (20%) of such total employed in the making of pants in any shop or shops making such coats, vests, or pants, where such shop or shops are located in one municipality.

"3. The employer shall report on separate payroll sheets, and transmit to the Code Authority, together with payroll reports as required under Article VIII, such 'slow workers' excepted under this Section, stating names of workers or their clock numbers (whichever is used in the filing of payroll reports); name of operation; whether by hand or machine; hours worked per week for the period reported; earnings per week for the period reported.

"On and after the effective date of this amendment, Sections b. c. and d of Article II of the Code of Fair Competition for the Men's Clothing Industry, as approved by the President on August 26, 1933, and known as Approved Code No. 15, Registry No. 216-1-06, shall cease to be in effect, except that:

"1. The rights and obligations of any employee and employer in the industry under Sections b. c. and d, and any and all interpretations of said Sections b. c. and d of Article II, which have accrued prior to the effective date of this amendment, shall not in any way be affected.

"3. Any penalty or liability under or arising out of said Sections b, c. and d of Article II, which have accrued prior to the effective date of this amendment, shall not be extinguished."

It was provided in the above Order, aside from amendments as quoted above, that "the firm of Lee, McClain and Scalzo, of Shelbyville, Kentucky, be exempted from the provisions of this amendment until a hearing has been duly held and decision rendered." It was further provided that the amendments "shall become effective as of June 15, 1935."

B. Arguments Favoring Proposed Classified Wage Scales.

As has already been indicated, the proposal for writing into the Code provisions setting up additional classified wage scales brought about a sharp division of opinion in the Industry. The Code Authority as a group favored in substance the proposed amendments, although as was explained above, Pages 215-217, there were some differences of opinion between the management members and the labor members. Opposition to the amendments centered in the Industrial Recovery Association group. This group for the most part was opposed to the amendments specifically and on principle. Because of the great importance of this controversy over wages to the Industry in general, it appears appropriate to present in more detail the arguments advanced for and against the proposed amendments.

The arguments favoring the amendments are best set forth in the May 10, 1935, report of Acting Division Administrator M. D. Vincent to the National Industrial Recovery Board recommending their adoption. The report follows: (*)

"MEMORANDUM May 10, 1935.

"TO: National Industrial Recovery Board

"FROM: M. D. Vincent, Acting Division Administrator

"SUBJECT: Proposed Amendments of Article II of the Code of Fair Competition for the Men's Clothing Industry.

"At the time of the public hearing on the proposed amendments above mentioned I was Deputy Administrator in the Apparel Section of the Textile Division, National Recovery Administration, in charge of the Men's Clothing Industry Code of Fair Competition, and conducted the hearing on the proposed amendments mentioned. I am making the following report, findings and recommendation because I am familiar with all of the facts, circumstances, proceedings, hearing and record relating to the proposed amendments.

(*) Memorandum dated May 10, 1935, from Acting Division Administrator M. D. Vincent to the National Industrial Recovery Board. (Men's Clothing Code Files, under Amendments).

"A public hearing was held on the proposed amendments above mention, February 1, 2 and 4, 1935, in the Hall of Nations of the Washington Hotel, Washington, D. C.

"Every person who requested an appearance was fairly heard in accordance with the regulations of the National Recovery Administration. There were present duly authorized representatives of the Code Authority, Research and Planning Division, Legal Division, Industrial Advisory Board, Labor Advisory Board and Consumers' Advisory Board. In addition there were present representatives of the Industrial Recovery Association of Clothing Manufacturers and the Analgamated Clothing Workers' Union.

"At the time of adjourning the hearing, the Deputy Administrator at the request of parties appearing and participating granted fifteen (15) days additional time within which such parties and any other interested parties might file written statements or briefs. Written statements or briefs were filed by Counsel for the Industrial Recovery Association of Clothing Manufacturers, the Bloch Company of Cincinnati, Ohio, the Merit Clothing Manufacturing Company of Mayfield, Kentucky, Frank Brothers of Lawrence, Massachusetts, the Standard Tailoring Company of Columbus, Georgia, the Goodall Manufacturing Company of Ohio and Tennessee, the Uniform Manufacturers, the National Grange, the Chambers of Commerce of Cleveland, Ohio, Lawrence, Massachusetts and Aurora, Illinois, and Congressman Haines of Pennsylvania.

"Upon the testimony and all other evidence contained in the record of this hearing, I find as follows:

"1. Two amendments of Article II, containing the wage provisions of the Code, are proposed by the Men's Clothing Industry Code Authority. One of these amendments was proposed by the management members of the Wage Rate Committee of the Code Authority and one by the labor members of the Committee.

"2. The Industrial Recovery Association of Clothing Manufacturers also proposed three amendments of Article II.

"3. The amendment proposed by the management members of the Wage Rate Committee of the Code Authority proposes classified hourly rates which include some existing rates, establish other and new rates, and in a few instances increase existing rates. This amendment also proposes a 'slow workers' tolerance of 20% of specified classes of employees, subject to stated minimum compensation and other conditions of employment.

"4. The amendment proposed by the labor members of the Wage Rate Committee follows closely the classified hourly wage rates proposed by the management members but also proposes certain new rates and increases of some existing rates.

"5. The three amendments proposed by the Industrial Recovery Association of Clothing Manufacturers propose:

"10. At the hearing, the Code Authority submitted this compilation and analysis of wage data in support of its proposed amendments, together with testimony of witnesses to market, labor and working conditions in the Industry.

"11. The revised amendment proposed by the Code Authority will establish some new classified wage rates and will increase some of the existing minima as appears from Section (A), Subsections (1) to (7) inclusive. Other minimum rates for men's wash suits of 100% cotton and unclassified manufacturing employees are not changed. Existing North and South differentials are not disturbed. Weekly minima for non-manufacturing employees are not changed.

"12. The Research and Planning Division's compilation and analysis show the average earnings of all employees throughout the Industry for the period July to November, 1934, inclusive, to be 66.2¢ per hour, which substantially exceeds the proposed new basic minima of 50¢, 55¢, and 60¢ per hour (excluding basic minima of 40¢ per hour and under). In centralized markets and in some decentralized markets the average hourly earnings substantially exceed the general average of 66.2¢ per hour.

"13. The labor cost of a large section of the Industry will not be substantially affected by the new rates proposed. A minor part of the Industry will be affected. The object of the proposed rates is to diminish certain existing unfair inequalities in wages and direct labor cost.

"14. The amendment also includes provision for employing physically and mentally handicapped workers at wage rates below the minima but at not less than other employees receive for similar work, and in no case for less than 70% of the minimum wage provisions. Such exempted persons may not number more than 5% of the total number of employees in any plant.

"15. There is in addition a 'slow workers' provision authorizing employment of such a class, which shall not at any time exceed 20% of the workers on operations included in Subsections 3, 5, 6, and 7 of Section (a) of Article II. This limitation will operate to prevent such tolerances exceeding more than a small percentage of the total number of employees in any plant.

"16. The existing Section (b) of Article II which maintains existing differentials between the lowest paid and the highest paid classes up to $30.00 per week, and the supplementary Sections (c) and (d) are eliminated, subject to a provision that the rights and obligations of any employee and employer which have accrued under Sections (b), (c), and (d) prior to the effective date of this amendment shall not be affected.

"17. The Association mentioned objected to the amendments proposed by the Code Authority and offered the testimony and statements of

several witnesses to support its objection and also in behalf of the three amendments above quoted which the Association itself proposed. The Association offered no representative or detailed wage data. Its chief showing consisted of the expert testimony and deductions of Dr. Willford I. King, Professor of Economics in the School of Commerce, New York University.

"Dr. King's testimony was theoretical and based upon hypothetical premises. He professed no knowledge of this Industry but declared that all Industry, including the Men's Clothing Industry, should be free from production and cost controls by law or otherwise. Freedom of production and distribution, he stated, is desirable and in fact necessary to the widest use of resources and labor. Such freedom with unrestricted competition, he stated, justifies competitive freedom in labor markets. For these reasons he said that fixed minimum wage rates whether imposed by law or by collective agreement were undesirable and uneconomic. Dr. King's observations fail to take into account certain economic facts of dominating importance. When wage rates are not fixed by law or by collective agreement they nevertheless rest upon a contractual basis. If the contract is not formal it is implied. It is quite impossible to free Industry and labor from some form of contractual relationship. The necessary existence of such a basis for wage rates unavoidably imposes some degree of restraint upon or control over wage rates and direct labor cost as a factor in production.

"there is nothing new in minimum wage rates. Code minima rates are distinguished from agreed minima chiefly in the fact that the law declares certain minima rates economically indispensable to public and private security.

"Subsequent to the hearing the Association filed a statistical analysis by Dr. King of wage data compiled and analyzed by the Division of Research and Planning. Dr. King's conclusion, briefly stated, is that the data does not support the results derived by the Research and Planning Division. His deductions, however, depend so largely upon presumptions and implications that they are of little if any practical value.

"As an instance, Dr. King in his statistical analysis said: 'It will be observed that the establishments having the fewer employees appear to have the larger proportion of workers receiving less than 50¢ per hour.' He also infers that the small employers are in the decentralized areas. This is not the fact. The small factories and shops are chiefly found in the large cities. It also appears that by far the larger number of small shops are in the higher paid wage areas some of which are the so-called centralized areas. The larger establishments are more widely dispersed. Nine of the fifty larest establishments are in small towns and very few small establishments are found in small towns. Dr. King's deduction is not in accord with these clearly-established facts.

"In six of the fifty largest establishments, excluding cutter and off-pressers, 40.3%, 40.6%, 41.1%, 50.7%, 61.5%, and 80.4%

respectively of the total number of employees receive only the minimum of forty cents per hour. In eight other of the fifty largest plants only .0%, 0.7%, 1.1%, 1.1%, 1.2%, 2.5%, and 2.7% respectively of the total number of employees are paid as little as the minimum of forty cents per hour. Again seven of the fifty largest firms pay from 41.2% to 64.5% of their employees over seventy-five cents per hour, while five others of these fifty largest establishments pay only 0.2%, 1.1%, 1.2%, 1.5%, and 2.5% of their employees over seventy-five cents per hour. It is to correct and in some degree iron out these inequalities in wages and direct labor cost that the Industry seeks to establish the higher minima rates. Such a change of wage rates seems essential to give security to established Industry members in both the centralized and decentralized areas.

"18. These increased minimum rates will by no means equalize existing wage disparities but they will tend to measurably reduce the unfair competitive advantages in direct labor cost now enjoyed by some members of the Industry. Inasmuch as these rates will appreciably affect only a few factories employing approximately 14% of the workers of the Industry, the price of clothing to the consumer should not be affected.

"19. I have examined the statements and briefs filed by Counsel for the Association and by others objecting to the amendments proposed by the Code Authority. These do not answer the very convincing proof offered by the Code Authority in support of its amendments.

"The brief of Mr. Leonard Weinberg, Counsel for the Association, contends that if the amendments are adopted 'They will make it impossible or impracticable for those manufacturing under mass production methods to continue to compete with the craft manufacturers in the centralized markets.'

"The centralized markets, it is asserted, are Philadelphia, New York, Chicago and Rochester, but certain of the so-called decentralized markets are equally important production centers.

"It is an interesting fact that the largest manufacturer in the Industry is in a so-called decentralized market, and several other of the largest are likewise in the decentralized fields. Equally important is the fact that among these largest establishments in the decentralized areas are found both the highest and the lowest average wage rates. It is obvious that a higher degree of fair competition cannot be established or maintained until existing variations in competitive labor costs are diminished.

"20. In proposing these amendments the Code Authority represents a very large majority of large, medium sized and small manufacturers. Of approximately 3,500 members, the protestants number less than sixty, of whom only a few are small manufacturers.

"The Code Authority, in proposing and assenting to the amendments, represents manufacturers in the Men's Clothing Industry producing approximately 80% of the total production.

"21. Protests were made by representatives of one small concern

in Shelbyville, Kentucky, moderate sized plants in Columbus, Georgia, Richmond, Virginia, and four or five others in scattered markets in the Industry. They testified in general terms without submitting cost data showing a need for relief from existing wage rates. If in exceptional instances exemptions or other forms of relief are needed, these should be granted upon appropriate showing and limited to such individual instances of need.

"I am recommending a stay of these rates for the Shelbyville, Kentucky plant until a hearing can be held. Respecting claims of a need for relief by a few other plants mentioned, I am causing a public hearing to be held to enable them to present proof of any exceptional circumstances affecting their inability, if any exists, to pay Code rates.

"22. The first of the three amendments proposed by the Association proposes a deletion of all wage provisions except the minimum wage. Obviously this would destroy much of the security of a large part of this Industry. As piece-work rates are a long established system in the Industry, classified hourly minima should be maintained to safe-guard fairly competitive labor costs, for it is in wage rates above the basic minimum that inequalities in labor cost exist, and in which there is a definite tendency in some instances to make the minimum the maximum rate.

"23. The second Association amendment proposed is to define North and South to conform 'with ecomomic, historic and geographic realities.' It is enough to say that economic and historic realities conflict. Geographic considerations should be considered to the extent that the demands of economic equality dictate. Provision is made by existing differentials for these factors. These differentials should be adjusted from time to time as experience and authentic data may suggest.

"24. The third amendment proposed by the Association would delete Article II (f) 'limiting (as the Association states) the amount of production.' This Code provision is not in any sense a limitation upon or control of production. Its purpose is to safeguard employees against an increased task requirement to avoid or defeat the wage and work time benefits prescribed by the Code.

"25. Previous to the approval of the Men's Clothing Industry Code there had occurred during the depression years a progressive decline in number of workers employed, in wage rates paid in most, if not all, markets of the Industry, and in production. Since the adoption of the Code and the organization of the Code Authority these trends have been gradually reversed. The shorter work week of 36 hours has spread employment. Code wage rates have substantially increased earnings. By November, 1934, average weekly earnings had increased 25% over June, 1933. In many markets the surplus skilled labor has been absorbed. The Code Authority in behalf of the entire Industry, excepting tailors-to-the-trade and manufacturers of uniforms, has recently asked for four(4) hours overtime per week for a period of five weeks to meet market demands for production. Only three or four important markets show a surplus

of skilled labor available this current season. Uniform hours and minimum wage rates have combined to make a substantial and needed progress toward stabilized competitive labor costs. The Industry is unquestionably in a much healthier state since the approval and administration of Code controls.

"26. It is significant that management representing a very large section of the Industry and the representatives of employees have joined in proposing rates, some of which are increases of existing rates.

"27. I further find that:

"(a) The amendments to the said Code and the Code as amended are well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act including the removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof, and will provide for the general welfare by promoting the organization of Industry for the purpose of cooperative action of labor and management under adequate governmental sanction and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industry by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

"(b) The Code as amended complies in all respects with the pertinent provisions of said Title of said Act, including without limitation subsection (a) of Section 3, subsection (a) of Section 7, and subsection (b) of Section 10 thereof.

"(c) The Code Authority is empowered to present the aforesaid amendments on behalf of the Industry as a whole

"(d) The amendments and the Code as amended are not designed to and will not permit monopolies or monopolistic practices.

"(e) The amendments and the Code as amended are not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

"(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to the approval of said amendments.

"For these reasons I recommend approval of the amendments proposed by the Code Authority as revised, effective as of 12:01 o'clock June 15, 1935. I also recommend disapproval of the three amendments proposed by the Industrial Recovery Association of Clothing Manufacturers.

"M. D. Vincent
Acting Division Administrator
Textile Division"

C. ADVISERS' RECOMMENDATIONS ON PROPOSED CHANGE IN WAGE PROVISIONS.

The approval of the wage amendments was strongly urged upon the National Industrial Recovery Board by Gustav Peck, Special Adviser, on May 22, 1935, in a memorandum to W A. Harriman, Administrative Officer. Mr. Peck stated that the inadecuacies of the Code's "II (b)" clause were largely the fault of the Administration and that the Code Authority had "made valiant efforts to enforce the clause without success" and that the proposed amendment is only a substitute of definite minimums for the "II (b)" clause. It was urged that "we shall be letting down the industry if we do not accept definite minimums for this trade." This adviser discouraged the postponement of action counseled by others because of impending legislative action concerning N.R.A. (*).

The Legal Division, through A. H. Barenboim, Assistant Counsel, on February 12, 1935, advised Deputy Administrator Vincent that the statistics furnished by the Code Authority in support of the amendments, "if left undisputed and uncontradicted, make it mandatory that the Administration approve the amendments in substantially the form as submitted.....It is my honest belief that at least a good prima facie case was presented by proponents." (**).

The Consumers' Advisory Board on April 25, 1935, advised Deputy Administrator B. E. Oppenheim with respect to the proposed wage amendments that no action should be taken "at the present time." Attention is directed to the April 18, 1935, minutes of the National Industrial Recovery Board "to the effect that amendments of Codes should be deferred until after the enactment of new N.R.A. legislation by the Congress, unless special circumstances require immediate action in the public interest." The Consumers' Advisory Board indicated that further study of the amendments would be made, and made no definite recommendation other than indicated above.(***).

The Research and Planning Division, relative to the proposed wage

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(*) Memorandum dated May 22, 1935, from Gustav Peck, Special Adviser, to W. A. Harriman, Administrative Officer, Code Records, Men's Clothing Files, under Amendments.

(**) Memorandum of February 12, 1935, from A. H. Barenboim, Legal Division, to M. D. Vincent, Deputy Administrator. (Men's Clothing Code Files, under Amendments--Wage Provisions, Deputy's Copy Volumes I and II.)

(***) Memorandum dated April 25, 1935, from Raymond Kenny, Consumers' Advisory Board, to Deputy Administrator B. E. Oppenheim, (Men's Clothing Code Files, under Amendments).

amendments, advised on May 2, 1935: (*).

"The Research and Planning Division is of the opinion that the time is not propitious for amending the Men's Clothing Code setting up many additional wage minimums in line with the proposed order submitted for consideration under date of April 9, 1935. Inasmuch as the N.R.A. is at present the subject of legislative and judicial survey which may result in changes in administrative policies it would appear unwise to bring about far-reaching changes in the Men's Clothing Industry which may prove to be only temporary.

"The setting up by codes of complex classified wage scales has been contrary to established policy of both the N.I.R.B. and the Research and Planning Division, although there are exceptions. It appears to have been recognized that the establishment of classified wage scales is a matter too difficult and complex, carrying the danger of handicapping industry by inflexible machinery, to be provided for and administered through codes. This assertion of present policy is in no sense a denial of the fact that in the Men's Clothing Industry unfair competition does exist with respect to wages above the basic minimums.

"In time, with clarification of N.R.A. policy, if it should be found desirable to amend the Men's Clothing Code respecting wages of the higher paid classes, the Research and Planning Division suggests that consideration be given to the possibility of allowing members of the industry option as between classified wage scales as proposed and a weighted average wage rate somewhat below the industry average, applicable to separate plants. This suggestion is made in view of the fact that a substantial minority group in the industry insists that dissimilar processes of manufacture employed in the industry make impossible, without undue hardship, the imposition of classified wage scales applicable to the entire industry."

No action was taken by the National Industrial Recovery Board upon the proposed Order regarding wages. A memorandum of L. C. Marshall, Executive Secretary of the N.I.R.B. to W. A. Harriman, Administrative Officer, on May 28, 1935, states: "In view of the recent court decision, I am returning the file of material in connection with the above mentioned subject." (**).

D. ADDITIONAL ARGUMENTS OPPOSING PROPOSED CLASSIFIED WAGE SCALES.

It should be recorded that the files of the Men's Clothing Industry

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(*) Memorandum dated May 2, 1935, from J. W. Hathcock, Research and Planning Division, to Walter E. Woodford, Jr., Assistant Deputy Administrator. (Men's Clothing Code Files, under Amendments).

(**) Memorandum dated May 28, 1935, from L. C. Marshall, Executive Secretary, N.I.R.B., to W. A. Harriman, Administrative Officer. (Men's Clothing Code Files, under Amendments.)

Code contain over a hundred letters of objection to the proposed classified wage rates. Most of these protests are from Chambers of Commerce, Senators, Congressmen, and almost without exception protest in general terms that the proposed amendments will place small plants in the decentralized areas at a disadvantage with respect to plants in large cities. The following protests appear to be outstanding and hence are presented in some detail.

Governor Eugene Talmadge of Georgia wired the N.R.A. on February 2, 1935, that "The Chamber of Commerce of Columbus, Georgia, is strenuously opposing the proposed amendment to the Men's Clothing Code which would have the effect of putting small clothing manufacturers in the South out of business. Will appreciate it if you will see that there is no discrimination against the small clothing manufacturers of Georgia and other Southern states."(*)

On December 29, 1934, John E. Edgerton, President of the Southern States Industrial Council, commented that the proposed amendments "have in them a serious threat to the Southern elements of that industry, due to the radical differences in the conditions of life which govern that industry"....Postponement of the hearing is asked until sufficient time for the Southern part of the industry "to gather the necessary factual information, and prepare their case."(**)

General R. E. Wood, President of Sears-Roebuck Company, Chicago, Illinois, wrote Deputy Administrator H. D. Vincent on February 1, 1935, stating:

> "We feel that the proposed changes in the Men's Clothing Code are of such vital importance to the general policy of the N.R.A. that no decision should be reached until general policies are decided. We feel that the proposed amendments tend to centralize Industry and throw it into large cities and will ruin the smaller manufacturers in smaller towns and cities. We feel that this will tend to defeat decentralization of industry."(***)

(*) Telegram dated February 2, 1935, to N.R.A. from Governor Eugene Talmadge, of Georgia. (Men's Clothing Code Files, under Amendments, Protests.)

(**) Letter dated December 29, 1935, to Clay Williams, Chairman, N.I.R.B., from John E. Edgerton, Southern States Industrial Council. (Men's Clothing Code Files, under Amendments--Protests.)

(***) Letter dated February 1, 1935, from General R. E. Wood, President, Sears-Roebuck Company, to H. D. Vincent, Deputy Administrator. (Men's Clothing Code Files, under Amendments.)

A protest filed by The Fechheimer Bros. Co., of Cincinnati, Ohio, is of interest in that an alternative proposition is suggested, namely: "...we would favor (in order that all manufacturers whether employing union or non-union help be placed upon the same basis of manufacturing costs) a fixed and established rate for piece work upon a scale of wages per operation whether performed by male or female, or skilled or unskilled operatives."(*)

Objection filed by the Merit Clothing Co., Inc., of Mayfield, Kentucky, on February 21, 1935, struck a similar note in stating:

> "What you want, is a higher minimum wage, while what we want and what we feel that in justice we are entitled to is that in determining this minimum, however high or low, it shall be expressed in terms of piece work or production rather than a stipulated hourly rate regardless of the production."(**)

Mr. W. D. B. Dodson, Ex. Vice President of the Portland, Oregon, Chamber of Commerce, indicated a fear that the proposed wage amendments would injure the small manufacturer located away from metropolitan areas. In arguing "the case of the small manufacturers" he asserts:(***)

> "Among our advantages may be listed the following:
>
> "1. Lower living costs for the labor as compared with great industrial centers.
>
> "2. Less turmoil and destructive interference with operations.
>
> "3. Reasonable proximity to the raw material supplies from which cloth is made and also a near situation to cloth manufacturing mills of our western territory.
>
> "4. A willingness of labor because of these lower living costs and better living conditions to accept a lower wage than is possible for him to accept in the larger and most costly living centers.

(*) Letter dated January 9, 1935, from The Fechheimer Bros. Co., Cincinnati, Ohio, to Acting Assistant Deputy Administrator S. W. Garbacker. (Men's Clothing Code Files, under Amendments.)

(**) Letter dated February 21, 1935, to Deputy Administrator H. D. Vincent, from the Merit Clothing Co., Mayfield, Ky. (Men's Clothing Code Files, under Amendments--General Correspondence.)

(***) Letter dated February 4, 1935, from Mr. W.B.D. Dodson, Executive Vice President of the Portland, Ore., Chamber of Commerce, to H. D. Vincent, Deputy Administrator. (Men's Clothing Code Files, under Amendments, Protests.)

"Our disadvantages may be listed as follows:

"1. Distance from the larger labor centers where the most efficient and trained help is found.

"2. Transportation costs in finding a market for a majority of the products made by our smaller operators in the distant locations.

"3. Increased selling costs forced upon our operators through the necessity of having salesmen make long journeys to seek the buying centers.

"4. Lack of immediate touch with the centers where new patterns and styles are created, with greater delay in getting information as to these styles and patterns and the inability to manufacture clothing ahead of the establishment of such styles and patterns.

"....Because of the terrific massing of production in a few centers where there is no opportunity for labor to acquire land, by means of which he can aid in his living costs, and due to the high rents and prices of property in these mass centers and because of the tremendous relief problems now faced in such centers by the nation and the states, the deliberate policy is being fostered of trying to decentralize in a modest, progressive and economic way certain industrial operations. Included in such operations we may very properly cite the Men's and Boys' Clothing Industry.

"This decentralization can be made gradual and will be for the benefit of the workers and society. An increasing percentage of these workers through subsistence homestead movements may be encouraged to acquire small acreages of producing land. This would put them on a safer and sounder footing for society as a whole.

"As a general argument we would also ask you to consider the national aspects of the economic situation. If codes undertake to force conditions whereby the great mass centers may be permanently protected in their present unhealthy development, there will be no chance whatever for the development of industry outside of such centers. There will be no opportunity whatever for the great producing regions of the nation outside of these artifically developed mass centers to expand in their industrial life. There will be no opportunity under such a program to balance the productive business of the nation, to get it on a more healthy basis, to avoid the excessive

costs of shipping the food and materials required by labor long distances at great charge and otherwise attain what we term a wholesome, more economical order."

V. APPRENTICES

The Men's Clothing Code as originally approved carried no provisions respecting apprentices. It soon developed, however, that the areas particularly affected by the prohibition of home work desired a learner provision for a definite period so that the home work problem could be met without injury. After considerable controversy within the Code Authority it was finally agreed that learners could be employed at rates 70 percent of the minimum for a period of three months from December 11, 1933. The Code was so amended on December 15, 1933. From the outset, as above indicated (see page 214), the decentralized areas of the Industry had wished a learner provision in the Code.

This learner problem became somewhat involved after the issuance of Executive Order No. 6750 C, dated June 27, 1934, which gave the Secretary of Labor authority to introduce apprentices to all industries irrespective of Code provisions. The Men's Clothing Code Authority urged the Secretary of Labor to provide for no system of apprentices in the Men's Clothing Industry until all available skilled workers had been reemployed. (*) Shortly thereafter the Code Authority made arrangements with the Department of Labor whereby all applications for apprentices were to be submitted to the Code Authority for recommendation.

On February 11, 1936, the Federal Committee on Apprentice Training advised that no apprentices were indentured in the Men's Clothing Industry, and therefore no Apprentice Exemption Certificates were granted to members of that Industry. (**)

Three requests for apprentices which came to the attention of the Administration were referred to the Code Authority. Their final disposition is not known. Code records disclose one Order, No. 15-53,

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(*) Report of Executive Director of the Men's Clothing Code Authority, dated September 14, 1934. (Men's Clothing Code Files.)

(**) Letter of February 11, 1936, from Mary Curran, Secretary to Wm. F. Patterson, Executive Secretary, Federal Committee on Apprentice Training, to J. W. Hathcock, Assistant Unit Chief, Textile Unit, Division of Review, N.R.A. (Men's Clothing Code Files.)

dated January 12, 1935, denying an application of Prosterman-Spiesberger Company, Chicago, Illinois, to employ apprentices at less than Code rates. The firm claimed that a shortage of skilled workers existed at the Company's plant in Jacksonville, Illinois. The denial of the Company's request was based on an investigation by certain Code Authority members, who reported a supply of skilled labor available in Chicago and who advised that another company in Jacksonville had not made a similar request.

VI. HOME WORKERS AND HANDICAPPED WORKERS.

As indicated on page 214, this chapter, the Code for the Men's Clothing Industry was amended to allow handicapped workers employment under certain special conditions. The President, by Executive Order No. 6606 F, dated February 17, 1934, made provisions whereby workers in all industries falling in this category should be allowed exemption from usual codal wage provisions, subject to the Department of Labor regulations.

For all industries, 17,203 handicapped workers certificates were issued under the Executive Order. Twenty-three Codes accounted for not less than 14,245 certificates. Of these Codes, Men's Clothing held third place, following Cotton Garment and Canning. The Men's Clothing Code accounted for 870 certificates issued, 458 applications refused, 5 certificates revoked, and 24 certificates cancelled. Table XLVIII on page 237 indicates the distribution of the above data by States.(*)

A provision similar to that described above for handicapped workers was made possible for home workers by Executive Order No. 6711 A, dated May 15, 1934. Of a total of 2,608 certificates for home work granted, only 16 are accounted for by the Men's Clothing Industry, which was generally recognized prior to the Code as the largest industrial home work industry. The following Table indicates the distribution of applications and certificates granted by States:

(*) United States Department of Labor, Division of Labor Standards, Exceptions to Wage Provisions of N.R.A. Codes in Cases of Handicapped Workers (Mimeographed Bulletin No. 244, December 9, 1935.)

TABLE XLVIII

NUMBER OF HANDICAPPED WORKERS CERTIFICATES ISSUED, REFUSED, REVOKED, AND CANCELLED TO AND INCLUDING MAY 27, 1935, ACCORDING TO CODE AND STATE REPORTING (*)

	CERTIFICATES ISSUED	APPLICATIONS REFUSED	CERTIFICATES REVOKED	CERTIFICATES CANCELLED
Totals	870	458	5	24
Colorado	9			
Illinois	140	125		
Indiana	65			
Iowa	14	21		
Kentucky	1			
Louisiana	9			
Maryland	78	11		7
Massachusetts	12		1	
Minnesota	6			
Missouri	4	2	2	
New Hampshire	2			1
New Jersey	35	12		
New York	204	209		12
Ohio	154	34	1	2
Pennsylvania	137	52	1	1
Rhode Island	1			1
Tennessee	11			
Wisconsin		2		

(*) U. S. Department of Labor, Division of Labor Standards, Exceptions to Wage Provisions of N.R.A. Codes in Cases of Handicapped Workers (Mimeographed Bulletin No. 244, December 9, 1935.)

TABLE XLIX

SPECIAL CERTIFICATES OF EXCEPTIONS TO HOMEWORK PROHIBITIONS OF THE CODES 1/

MEN'S CLOTHING*

	Certificates Issued	Applications Refused
Totals	16	27
Maryland	2	
New Jersey	5	6
New York	4	19
Pennsylvania	5	2

(*) No certificates were revoked for violations of provisions of certificates; three certificates were cancelled in the State of Pennsylvania because they were no longer needed.

1/ United States Department of Labor, Division of Labor Standards, Exceptions to the Industrial Home Work Prohibitions of N.R.A. Codes (Mimeographed Bulletin No. 243, December 9, 1935).

VII. EXEMPTION FROM WAGE PROVISIONS.

As has been indicated already, the Code Authority took the position consistently that it had no power to make exemptions to the Code and that it was disposed to discourage the granting of exemptions by the Administration. The Code Authority, however, approved Order No. 15-11, dated April 27, 1934, which gave certain exemptions to Puerto Rican manufacturers. As explained in our discussion of hours exemptions, the Puerto Rican manufacturers shipping to the Continental United States were allowed 40 hours per week. Additionally, these firms were allowed to pay employees 50 per cent of the minimum wages provided for the Northern area of the Industry.

The Administration supported the Code Authority in its position that the wage provisions of the Code be maintained without exception. No exemptions were granted by the Administration from the codal wage provisions except in the case of Puerto Rico. Considerable pressure was brought upon both the Code Authority and the Administration for a general relaxation of Code minimum wages in the form of apprenticeship provisions, but with the exception of the three-month exemption to the entire Industry, discussed on page 214 of this chapter, no exemptions were allowed.

VIII COMPLIANCE

Attention is called at the outset to the special investigation of Code enforcement activities made by Deputy Administrator L. D. Vincent, covering the period up to August 30, 1934, the date of the report. This report is available in the Men's Clothing Code files and is described in the September 9, 1934, report of the Executive Director of the Code Authority as follows:

> "Mr. Robert Straus, Special Assistant to General Johnson, was asked to make a special investigation of the entire enforcement activities of our Code Authority up to date, and, chiefly, to study the records of actions of both staff and the II-D Committee in the application of II-B. Mr. L. D. Vincent, one of the ablest Deputy Administrators in the Apparel Section, was delegated by Mr. Straus and Major Gitchell to make this investigation. Mr. Vincent spent several days going through our files and reading the records of the hearings held before the II-D Committee. He placed special emphasis in his investigation on every detailed subject in connection with the Greif case. On August 30, (1934) he made his report, a copy of which has been made available to us. His conclusions are most flattering in that he finds that we have covered all of the important markets in the country in our investigations thoroughly and impartially, and that in the application of all the provisions of the Code there has been no discrimination between markets or between individual firms. In fact, his only adverse comment was that we were probably too strict in the wording of some of our letters to alleged violators of the Code. This thorough-going

report should be the final answer to the charges and rumors that you are all familiar with to the effect that the Code Authority has discriminated against certain sections and members of the Industry."

The investigation of the enforcement methods of the Code Authority by Deputy Administrator . . D. Vincent was the outgrowth of a complaint handled by the New York State Compliance Office, originated by Martin E. Popkin, Executive Director of the Industrial Recovery Association of Clothing Manufacturers, who, under date of May 23, 1934, wrote "complaining that the Code Authority was partisan and using its power to discriminate against members of his Association." Mr. Popkin charged "that Article II (b) was being enforced by the Code Authority against members of his Association and not against members of the Clothing Manufacturers Association of the United States, which Association had a collective agreement with the Amalgamated Union."

Mrs. Anna M. Rosenberg, New York State Complaince Director, discussed this complaint with Mr. Robert H. Straus, Special Assistant to the Administrator, and thereafter Mr. Howard, a special agent, was assigned to make an investigation. Mr. Howard spent some time on the investigation and upon reporting that he was not receiving the cooperation he expected from the Code Authority, was superseded by Deputy Administrator Gitchell, who took charge of the matter. . , (Subsequently, Mr. Vincent was assigned to make the investigation, and he reported thereupon to Sol A. Rosenblat, Division Administrator, on August 30, 1934. (*)

Mr. Vincent's report came to the attention of the Industrial Recovery Association around the first of February, 1935, during the course of the public hearings on the proposed wage amendments. The report was severely criticized upon both the scope of the investigation and the findings. (**)

The records of the Washington Compliance Office throw some light upon the extent of complaints of Code violations and the manner of their disposition. For the period from September 15, 1934, to January 19,1935,

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(*) Memorandum dated May 6, 1935, from Mrs. Anna M. Rosenberg, New York State Compliance Director, to L. M. C. Smith, N.R.A. Legal Division. (Men's Clothing Code Files, under (Code Authority Complaints).

(**) Pamphlet dated February 11, 1935, entitled Re: Proposed Amendments to Code of Fair Competition for the Men's Clothing Industry with Special Reference to The Secret Report. (Men's Clothing Code Files.)

we find on hand and docketed (allowing for bookkeeping rejections) 779 labor complaints and 157 trade practice complaints. Of the labor complaints, 520 were adjusted, and in 68 cases no violation was found, leaving 191 on hand, of which 23 had been referred to the Compliance Division.

The Field Office Report Summary of the Compliance Division, covering the period from June 16, 1934 to February 2, 1935, covers relatively few cases (101 labor complaints and 8 trade practice complaints) and is for that reason of little value in measuring compliance in this Industry, but for the very reason of the small number of cases reported it might be assumed that the Code Authority has been particularly aggressive in policing the Industry. In this 80-per-cent-unionized Industry, with labor representation on the Code Authority, it is not surprising to discover that most complaints of violations found their way directly to the Code Authority.

In the general enforcement procedure of the Code Authority chief reliance was placed upon the payroll and productions reports of members of the Industry. These reports are sampled to determine the extent of observance or non-observance. Also, general investigations were made throughout the various industry areas. Upon the discovery of a wage violation, the extent of the violation was tabulated and a bill sent to the violator, and restitution was asked. If the violation was acknowledged and the bill paid, the sum in question was paid by the Code Authority to the employee or employees. If the bill was disputed, the Industry member was requested to appear before the Committee provided in Article II (d) to present his case. When the member did not appear or if an adjustment could not be made after appearance, the member was cited to the Compliance Division. Occasionally, arbitration of a case was arranged, to which an Administration official or Division was a party as well as the Industry member and the Code Authority. (See pages 156 - 160 . Chapter IV, regarding Compliance Procedure.)

At the outset, the Code Authority divided the country into five districts with a chief investigator in charge of each district. It was later found expedient to route all matters of investigation through the central office. Provision was made, however, for hearing cases in cities outside of New York. Certain Boston Industry members in particular were met in Boston upon their request.

The Code Authority in certain instances arranged for having accountants visit shops, especially in New York, and assist in establishing a system of keeping production and payroll records which were essential to enforcement purposes. Also, Code Authority officials met with large groups of Industry members and instructed them in methods of keeping records. (*)

(*) September 20, 1934, Report of Executive Director of the Men's Clothing Code Authority. (Men's Clothing Code Files).

The compliance officials of the Code Authority soon discovered, as was expected, that the greatest number of Code violations had to do with wages. Likewise, they discovered that "the most serious problem facing us in connection with the violation of the wage provisions of the Code, has to do with Clause II (b) (wages of the most skilled groups." The Compliance Committee explained the nature of their difficulty in a measure as follows: (*)

> "In the first place, the securing of facts upon which to base the application of II (b) is not always an easy task and requires the attention of a man more or less skilled in piece rate fixing within this industry. Even when the facts are determined the application of the clause frequently presents an even more difficult problem. . . . . Time is of the essence in this connection, because it obviously would be impractical to consider making adjustments in the fall season of 1934, that would relate back to conditions existing in July, 1933."

The full measure of the difficulty which the Code Authority anticipated early in its experience and realized ever since in the attempts to enforce Article II (b), can be best appreciated, doubtless, by a close examination of the interpretation and formula by which this provision was administered. Let us recall that Article II (b) reads as follows:

> "The existing amounts by which the wages in the higher-paid classes, up to classes of employees receiving $30.00 per week, exceed wages in the lowest-paid substantial classes shall be maintained."

The Code Authority (See Chapter IV, under Section Interpretations and Interpretation Procedure") interpreted the words "substantial classes" as used in II (b) to include 20 per cent of the total number of employees in any establishment, this interpretation to become effective with the first payroll following November 20, 1933. Along with the interpretation, the Code Authority drew up for both the Northern and Southern areas an illustration of the way in which it was to be applied. The illustration of the way in which the interpretation was to be applied is found on pages 181 - 183 Chapter IV, under Section "Interpretations and Interpretation Procedure."

As early as March, 1934, Mr. Sidney Hillman informed the Code Authority in meeting that the Administration was whole-heartedly behind them in the enforcement program and that in his judgment enforcement of II (b) in the method provided was fair. He warned the Authority, however, that if industry did not respond to the methods provided for increasing the wages of the classes of workers above the minimum that he would ask for an amendment to the Code to provide for classification, although, as explained, he personally was opposed to classification because the rule would then be too strict. He concluded by saying that if the Code Authority

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(*) March 2, 1934, Report of Committee on Compliance and Enforcement of the Men's Clothing Code Authority. (Men's Clothing Code Files.)

were a bit more liberal in hiring the right kind of investigators the problem of II (b) would be solved.

Mr. Hillman's implied fears and warning were indeed prophetic, judging from the final resolution of the Code Authority to present amendments to the Code providing for additional classifications of labor and wage minima. (See page 215, this Chapter.)

Although complete figures are not available respecting the number and types of violations of codal provisions, the records do disclose the amounts of money assessed and collected against violations. On the dates February 27, 1935, and March 1, 1935, the Executive Director of the Code Authority supplied the following information to Assistant Deputy Administrator Walter E. Woodford, Jr.: (*)

> "Out of the total of $90,715 collected from all sources approximately $35,400 was collected on II (b) adjustments. (Greif payment of $25,000 is included in these totals.)"---"the amount remaining due on these unpaid installments is $13,419.93, making a total amount of money collected and assessed $104,134.93."

In connection with giving the above information, it was explained that in addition to cash payments of back pay, there were in many cases increases in piece rates and labor costs for the future. Typical of this was mentioned the Curlee case, "where the adjustment was effected by the firm making general percentage increases to all workers by an amount more than sufficient to put them in compliance with II (b)." It was added that "out of a total of 33 II (b) charges marked dismissed for the Industry as a whole, there was a reasonable number of cases which were settled on the same basis as the Curlee case, namely, by an increase in cost, but without cash payment."

A summary of the handling of certain specific wage violation cases under the Code will add somewhat to the explanation of the Code Authority manner of enforcement, will indicate more fully the difficulties encountered and will show the nature of Administration cooperation.

(*) Letter dated March 1, 1935, Morris Greenberg, Executive Director, Men's Clothing Code Authority, to Walter E. Woodford, Jr., Assistant Deputy Administrator. (Men's Clothing Code Files.)

A. The Greif Case.

The L. Greif & Bro. Company of Baltimore, Maryland, was investigated by the Code Authority. An analysis of the investigation revealed non-compliance with Article II (b), and on April 24, 1934, the Company was billed for back wages amounting to $35,785.91. The Code Authority could not get the Greif Company to appear before the II (d) Committee. The Company demanded assurance that its right to challenge the validity of the Code Authority's action or to challenge the constitutionality of the N.I.R.A., would not be waived. Such assurance, the Code Authority did not assume power to give. The case was cited to the Compliance Council of the Compliance Division in Washington, and was heard July 5, 1934.(*)

The Compliance Council voted unanimously to give the Greif Co. two weeks' grace, during which time it might contact the Code Authority and the Deputy Administrator and be heard on its claim that the interpretation of Article II (b) had been applied against it in a discriminatory manner. It was further agreed that if the Code Authority and the Deputy Administrator made no recommendation to the contrary and if the respondent had not agreed within two weeks to make full restitution of back wages that the Compliance Council would recommend removal of the Blue Eagle and withholding of N.R.A. labels, and would refer the case to the Litigation Division. (**)

The Greif Company brought suit in the Federal Court at Baltimore to stop action of the N.R.A. in ordering the Code Authority to cease issuing labels to the Company. In the meanwhile, the Department of Justice suggested an investigation by the Research and Planning Division. At the outset, the Research and Planning Division was concerned solely as a fact-finding agency. Later, as will be shown below, officials of the Administration became involved in the case as arbitrators. The investigation was conducted by Mr. Frank Taggart, Research and Planning Division, and Deputy Administrator Morris Greenberg, under the direction of Mr. Leon Henderson, Director of Research and Planning. The part played by the Administration can best be presented by the following resume of the proceedings by an official who was party to the investigations. (***)

(*) Minutes of Compliance Council, July 11, 1934, Memorandum from John Hopper, Executive Assistant, to Sol A. Rosenblatt, Division Administrator. (Men's Clothing Code Files.)

(**) Minutes of Compliance Council, July 11, 1934. Memornadum, John Hopper Executive Assistant, to Sol A. Rosenblatt, Division Administrator. (Men's Clothing Code Files.)

(***) Memornadum dated March 8, 1935, from H. F. Taggart to Leon Henderson. (Men's Clothing Code Files, under Hearings, Senate Finance Committee.)

"This is a resume of the activities of the Research and Planning Division, with the technical assistance of their Deputy Administrator Greenberg, in the Greif case.

"About August 1, 1934, Greif had been found in violation of Section II (b) of the Men's Clothing Code by the Code Authority and the Compliance Division had upheld the findings. Greif had also gone into the Federal Court in Baltimore and obtained a temporary injunction, seeking thereby to retain the Blue Eagle and their stock of labels. Hearing on a permanent injunction was pending. In order to avoid further litigation the suggestion was made by yourself (Leon Henderson) to see (1) whether the Code Authority's application of II (b) had been properly made and (2) whether there were any circumstances which should modify the application. Grief claimed (1) that the interpretation and application of II (b) were both discriminatory and illogical and (2) that their operating costs and conditions were such that the application proposed was unfair.

"The commission was undertaken as a purely fact finding job. The Greif records were made available and we determined their costs with what seemed to be substantial exactness. We obtained competitive garments and figures indicated their costs, also. Our findings were (1) that Greif had not complied with Section II (b) and (2) that their costs, while substantially higher than they were pre-code, were, nevertheless, decidedly lower than those their nearest competitors. They should, therefore, be expected to make a real effort to comply with Section II (b), a thing which they had not done at all.

"These findings were made some time in the latter part of August. When they were reported to Greif and the Attorneys for both sides, Greif seemed willing to accept them and to take some action to comply. They were unwilling, however, to accede to the award and the procedure of the Code Authority. The Code Authority in turn would be willing to accept some compromise if the principle of Section II (b) were upheld. Naturally we were asked to suggest the remedy. Thus you were put in the position of mediator or arbitrator and the second phase of our connection with the case began.

"Our proposal consisted of three parts: (1) that Greif abandon its time work and bonus system of pay and adopt a piece-work system; (2) that the piece-work cost of Greif's basic garments be set at a figure which would be more nearly in line with their competitors, and (3) that pay restoration to employees be on the basis of a recomputation of their wages on the new piece rates rather

than by the scheme proposed by the Code Authority. These suggestions were accepted in principle, but the manner of setting the piece rates, the level of basic costs, and the degree of pay restoration had to be settled by negotiations.

"Agreements on the points were arrived at as follows: (1) Piece rates were to be established by joint efforts of Greif and ourselves, we making the original proposals and having the final say; (2) basic costs were to be approximately 7% higher than the post-Code costs as determined by our findings; (3) pay recomputation was to date back to approximately June 9, 1934.

"These matters were settled on August 31, 1934. In about a week we made our first proposals of piece rates, but it was not until October 15th, that final agreement was reached as to the piece rates for the eight plants included in the Code Authority's original bill. Rates for the other two plants were set even later. As the rates were set computations were made of the earnings which all employees would have made since June 9th, if the piece rates had been in effect as of that date. These computations were audited by Messrs. Chavin and Ollis. From the earnings which would have been made deducted the wages actually paid in each case. Any excess of the computed wage over the actual wage was to be paid to the employees in question. The total amount of such payment was $24,699.41. The payment of the individual amounts was audited by Mr. Ollis, This part of the work being completed on December 13, 1934. His report indicates that he examined receipts from all but three of the employees entitled to share in the distribution. Of these three one had died and two could not be located.

"Full records of the case are in possession of the Cost Accounting Unit or are in your files. The Code Authority has been furnished with the piece rates and the names of the operations. Greif gave us complete specifications for each operation as well, but these specifications were not, by agreement with greif, transmitted to the Code Authority.

"Neither has the Code Authority been furnished any cost information except that basic costs decided upon in the agreement of August 31, 1934, and the same basic costs as worked out in piece rates. Neither names or recipients nor amounts of pay adjustments have been disclosed to the Code Authority.

"We are informed by Greif's representatives that the new piece rate system is working satisfactorily at the present time, with minor exceptions. Apparently, a very few of the hundreds of individual rates set are not quite what we hoped for, but the company has made no application to change them.

"The Compliance Division received one complaint from a Greif employee who evidently did not understand why some employees received a substantial pay adjustment others got nothing. This employee also complained that the Company was driving those who were unable to earn the minimum under the piece rates. This is probable. However, from all information in our possession, we have no reason to believe that the settlement has not worked out substantially as expected."

The Executive Director of the Code Authority, in reporting the settlement of the Greif case to the Code Authority, asked to be excused from reading the text of the agreement, as it had been arranged that the terms of the agreement were to be withheld from the public. He further explained that the settlement of the case compensated the employees as required by the codal provisions and other II (b) cases need have no other basis of settlement.(*)

B. The Cincinnati Cases.

The Cincinnati cases are worthy of considerable attention if a full understanding of the difficulties attending the enforcement of II (b) is desired. Here again, as in the case of the Greif Company, we find an active part played by officials of the National Recovery Administration. The philosophy underlying the proposed settlement "in mass" of the Cincinnati cases is an excellent commentary upon the aims of both the Code Authority and the Administration, and the means employed under codal provisions to attain their desired ends. Also a resume of the handling of these cases reflects the attitudes and lines of defense of the respondents. Following is a resume of the Administration's part in the handling of the Cincinnati compliance cases: (**)

"A hearing was held on October 12, 1934, before the Compliance Council, in respect to Five Men's Clothing Manufacturers, all of Cincinnati, Ohio, for violation of Article II, Section (b) of the Men's Clothing Code. Following are the five firms involved, namely:

1. P. H. Davis Company
2. Levine Brothers, Inc.
3. H. A. Seinsheimer Company
4. Storrs Schaeffer Company
5. Silverstein and Sons Company

(*) Minutes of Meeting of the Code Authority, dated September 14, 1934.

(**) Memorandum dated March 22, 1935, from Edward Chavin, Research and P Planning Division, to R. H. Lansburgh, Associate Director, Research and Planning Division. (Men's Clothing Code Files, under Compliance.)

"As a result of this hearing an agreement was entered into on October 19, 1934, a copy of which is herewith appended.

"The above five firms all signed the agreement and Mr. F. C. Williams, Attorney of the Law Firm of Peck, Schaefer and Williams, of Cincinnati, representing these five firms, signed for the following additional seven firms who were to be included in the aforesaid agreement, namely:

6. Herbert Tailoring Company
7. Schwartz Tailoring Company
8. Valerio and Company
9. Hamilton Tailoring Company
10. Ohio Tailoring Company
11. I. and S. Bing Company
12. Superior Tailoring Company

"The seven firms, six to twelve, inclusive, were included in the picture because of the fact that Mr. F. C. Williams represented them all, and while they were not cited for violation of Article II, Section (b) of the Men's Clothing Code, were in the process of investigation.

"Upon examination of all available papers in the files of the Compliance Council it was found that no deficiencies were entered against the Herbert Tailoring Company and Ohio Tailoring Company by the Code Authorities and in view of which these two firms were not investigated and were considered by the investigators, Morris Greenberg and Edward Chavin, to be in compliance with Article II, Section (b) of the Men's Clothing Code. The remaining ten firms were investigated by us.

"The scope of investigation covered by the aforementioned agreement could be classified as follows; namely:

1. Were underpayments made -
2. If so, to what extent -
3. Other questions relating thereto.
4. Other questions before the Code Authority or Compliance Council pertaining to alleged violations of the Men's Clothing Code.

"In strict conformity with Article II, Section (b) of the Men's Clothing Code, all of the firms cited with deficiency bills can be said to have violated the Code provisions referred to.

"The method and formula used by the Code Authority in arriving at and computing the deficiencies in general can be said to be sound, even though they appear to be more or less artificial.

"However, when pre-code records of hours worked are missing it is necessary to make some assumptions in order to get at pre-code wages per hour. This, in itself, would weaken the basis upon which these deficiencies are determined as fixed to individual workers. In some instances, this resulted in absurd conclusions. The only really satisfactory and equitable solution, for both the past and future, is a reconstructed piece rate schedule similar to that worked out for the Greif case.

"Bearing this in mind and also the broad purposes and intent of the Code provisions involved in this situation, we made a study of the direct labor costs of the basic products manufactured for each of the firms affected, and then compared these basic costs with the costs of products having strictly comparable labor content, in order to ascertain whether compliance existed in each case with Article II, Section (b) of the Men's Clothing Code. We compared these results with those based upon the application of the method adopted by the Code Authority to see whether they would result in competitive inequity.

"We disregarded the artificial method approved by the Code Authority, mainly because of the varying results that could be obtained by applying it to concerns in equal competitive positions. The deficiencies resulting from the Code Authority method would differ depending upon the 'labor spread'. The wider the spread the greater the deficiency, and the narrower the spread the smaller the deficiency. For example, firms having an average of sixty-four cents per hour, direct labor cost, and having wide labor spread, could have the costs increased more than a firm with an average of forty-four cents per hour, direct labor cost, and possibly a narrower labor spread.

"Therefore, we based our investigations on comparable piece rate structures, always having the 'Greif' set-up in mind.

"Where the labor costs for the products manufactured were, at the time, equal to or greater than the direct labor costs of the products having a strictly comparable labor content, we recommended that those firms be declared in compliance with Article II, Section (b) of the Men's Clothing Code and be relieved of any payment or assment in connection therewith. A further increase in their direct labor costs would raise their costs to a non-competitive level.

"Where the direct labor costs were lower than the direct labor costs for products having comparable direct labor content, we recommended specific awards in each case, depending upon whether the amount by which these direct labor costs were less than those in products having a comparable direct labor content.

"Specific awards were recommended in the following six cases:

1. H. A. Seinsheimer Company
2. Levine Brothers, Inc.
3. Superior Tailoring Company
4. Schwartz Tailoring Company
5. I. and S. Bing Company
6. Silverstein and Sons Company

"In formulating the recommendation for the award, the following facts were borne in mind, to wit:

"1. The six firms against whom the awards were made could pay the entire Code Authority Bills and in doing so would not raise their costs to a non-competitive level.

"2. To ask some of these firms to pay the Code Authority bills as rendered when revised to cover the full period would be impracticable since the large sums which some of the firms would have to pay might seriously affect their set-up, or jeopardize their continuance in business.

"3. The back payment made by 'Greif' comprised approximately one-third of the Code Authority Billings. Therefore, the use of such approximate amount was made. Furthermore, at the time the recommendations were made, the Code Authority Billings, to date, were not available; neither was the period to be covered by back payments known.

"4. Some degree of latitude had to be allowed in the fixing of the awards because of the fact that all the concerns involved had different types of records and systems and would not lend themselves very easily to any one method of procedure to be followed in the distribution of back pay.

"5. The raising of the piece rate structure to the level in our findings of fact, as being the nearest comparable competitive direct labor cost, was to take care of future compliance, and do away with the possible recurrence of the same situation that would eventually result; and in fact, that condition is present today.

"6. These increases in direct labor cost for the future were in some cases slightly greater than the increases that would result were the Code Authority Billings met in full, but in no case would they place the firms involved in an inequitable competitive position. These slightly additional increases would partly compensate the workers in future basic costs, for the substantial reductions recommended in the amount of the back pay as determined by the Code Authority.

"7. In the case of Levine Brothers, the special recommendation that was made to set up piece rates was due to the fact that that firm had nothing that could be construed as a piece rate structure.

"On December 22, 1934, the awards as recommended by us and approved by Mr. Leon Henderson and Blackwell Smith were presented to Mr. F. C. Williams, Attorney for all the Cincinnati firms. Ten days were given to the respondent firms to file statements or briefs in relation thereto, after which the awards were to go in effect, viz: January 2, 1935.

"In the interim the six firms against whom awards were issued retained a new counsel.

"The new counsel, Mr. Kusworm, requested time to study the facts in the case and acquaint himself with the situation. Time was granted, but the awards were not changed.

"On February 20, 1935, a hearing was held before the Advisory Council of the Compliance Division to show cause as to why the respondents in these cases should not be deprived of the use of the N. R. A. Blue Eagle and Code Label for failure to comply with the terms of the award. The awards as rendered had been approved by the Compliance Council.

"Objections were raised by the respondents' new Attorney, Mr. Kusworm, at this hearing, to the entire proceedings on legal grounds and methods of procedure. Futhermore, he entered a motion that the Compliance Council set aside and hold for naught the arbitrator's Findings or awards made and to re-refer the matters to be arbitrated respecting the said six firms to the arbitrators heretofore selected for the following reasons, namely:

"First, Finding (A) of the award, to the effect that the Code Authority billing be reduced to approximately one-third, is ambiguous.

"Second, Said Finding (A) is contrary to law for the reason that the arbitrators did not make, with reference to Finding (A), a definite specific Finding.

"Third, That said award is contrary to the Code of Laws of the United States, Article 9, in Statute of February 12, 1925, C-213, Section 1043, Statute 885.

"Fourth, That Finding (B) which raises the costs in all six concerns aforesaid of sack coats, vests, and/or pants, is not in conformity with the agreement of arbitration and is upon matters not submitted to said arbitrators. It is unfair and not for any specified time.

"Fifth, Said awards (B) are contrary to Code of Laws of the United States, Article 9, Section 11, Subsection B, being also found in Statute of February 12, 1925, C-213, Section 1143, Statute 885.

"Sixth, That the Finding or award against Levine Brothers, Inc., marked (C), to wit:

"That the costs be put on a complete new piece rate basis, be set aside and held for naught, because of the same reasons set forth in the preceding paragraph marked 'Fourth'."

It is not surprising to find that officials of the N. R. A. were not in perfect accord and were none too sure of their ground in the part played in helping the Code Authority with its II (b) cases. The following extracts from an opinion from the Legal Division of N. R. A. appears rather conclusive evidence that the Administration was often feeling its way and traveling paths none too well-charted in matters of Code enforcement. The following comments are directed particularly to the handling of the Cincinnati cases: (*)

"Under the agreement dated October 19, 1934, entered into between the Men's Clothing Code Authority and the Cincinnati concerns, Blackwell Smith and Leon Henderson were to make 'findings' and these findings 'shall be final, binding, and conclusive upon the parties hereto, and the firms listed therein will make such restitution of the amounts so found, if any, to their workers forthwith.'

"Under this agreement Messrs. Smith and Henderson were limited to two findings, (1) that the Cincinnati concerns had either complied or had not complied with Article II, Subdivision (b) of the Men's Clothing Code, and (2) that in the event that the arbitrators found violations of Article II, Subdivision (b) the concerns be required to pay their employees the amount of back pay found to be due.

"The awards made by the arbitrators with respect to four of the concerns were proper in form and substance. . . . . .

"With regard to the following concerns the situation is quite different. . . . . .

(*) Memorandum dated May 6, 1935, from Louis J. Altkrug, Assistant Counsel, to R. E. Elwell, Division Counsel. (Men's Clothing Code Files, under Employment - - - Wages and Hours - - - - Interpretations.)

"In the case of each of these concerns the award made by the arbitrators was in the following form:

"'(a) That the back pay be reduced to approximately one-third.

"'(b) That their cost be increased to the figures we have indicated in our findings of fact as being the cost of the nearest comparable product, namely,' (Here certain costs are set forth in each case for different articles made by the concerns in question.)

"It is my contention that the arbitrators had absolutely no authority to make any such awards in the case of the concerns found to have violated the Code. All that Messrs. Smith and Henderson could do was to find (1) that each one of these concerns had violated the Code, and (2) the amount that they would be required to pay by way of restitution to each employee. Under the arbitration agreement it was not within the scope of the arbitrator to enter into the equities of the situation. I therefore do not think that the awards made by the arbitrators in the case of the second group of concerns can hold water. . . . . .

"The next question is: What are we to do in view of the present state of the record?

"Although the arbitrators may not have carried out their arbitration in a proper manner and although their awards may be subject to attach for that reason, I do not think that we ought to do anything that would jeopardize the fact that we have an agreement in writing from these people to arbitrate. I think that the arbitrators should call on both parties concerned, i.e,, the Men's Clothing Code Authority and the six Cincinnati concerns and advise them that hearings will be held and each side may introduce such testimony as they see fit in support of their respective positions. The arbitrators can then examine these reports and the reports submitted by Messrs. Chavin and Greenberg and they can then make their findings (1) that the six concerns have complied or not complied with Article II, Subdivision (b) of the Code in view of the interpretation made by Lindsay Rogers on November 8, 1933, and approved on June 9, 1934, and (2) if the Cincinnati concerns have not complied, the amount due to each employee as calculated in accordance with the interpretation in question.

"If the Cincinnati concerns feel that these awards are inequitable they may then request that the full facts of each case be submitted to the Committee provided for in Article II, Subdivision (d) for their further consideration in accordance with interpretation approved on September 26, 1933, referred to above. That Committee may then make its recommendations

and awards on the basis of equities of the situation.

"I think that it would be very dangerous to go into court on the record we have before us and I would recommend that steps be taken to insure an arbitration within the terms of agreement of October 19, 1934. We ought not to do anything that would annul this agreement."

The Men's Clothing Code files do not reveal further evidence concerning the Cincinnati cases. Apparently the Supreme Court decision invalidating the Codes brought an end to all negotiations.

IX. EMPLOYMENT AND WAGES UNDER THE CODE

The Code Authority under provisions of the Code accumulated valuable records which were used chiefly in connection with enforcement. Nevertheless, certain compilations of interest have been made of payroll and production data witch give a fair indication of trends within the industry

March was the height of the 1934 spring season in the Men's Clothing Industry. Code Authority payroll records show that 127,919 workers were employed during the month, by 1,950 establishments. Including workers employed by uniform manufacturers, who report separately, and those employed by small manufacturers and contractors not reporting, it was estimated by Code Authority officials that 140,000 workers were employed at the peak of this season. It was estimated that 108,000 were employed in March, 1933. Accordingly, employment in March, 1934, represents a gain of around 30% over March, 1933. From March, 1934, to September, 1934, however, there was a reduction of about 15% in the number of persons employed. This was due to the slackening of production during the summer season. (*)

Hourly wages for all manufacturing employees, including cutters and pressers, in July, 1934, averaged 67.1 cents per hour. In March, 1933, the average wage was approximately 42 cents per hour. (Hourly earnings in the Industry reached their peak in 1934, when they were 76 cents per hour.) The gain in weekly wages from 1933 to 1934 was not so large as the gain in hourly wages because of the reduction in number of hours worked, for a full time worked period. During August, 1934, the peak month of the summer season, manufacturing employees worked 27.8 hours per week on the average, while weekly earnings averaged $18.63. Because of the practice of division of work in the Industry, the figure of the number of hours worked is more than the number of persons listed on the payroll.(**)

(*) Report of Men's Clothing Code Authority Committee on Statistics, dated September 13, 1934. (Men's Clothing Code Files)

(**) Report of the Men's Clothing Code Authority Committee on Statistics, dated September 13, 1934. (Men's Clothing Code Files)

To what extent the Men's Clothing Code or for that matter N.R.A. was responsible for improved conditions of employment and wages during the Code period one cannot estimate with any degree of accuracy. Yet, it remains a fact that there was marked improvement, a considerable measure of which responcible members of the Industry are willing to attribute to N.R.A. and the Men's Clothing Industry Code in particular.

On May 22, 1935, Mr. Mark W. Cresap, President of the Clothing Manufacturers Association of the United States, made public a statement favoring the continuation of N.R.A. in which he summarized the experience of employees in the Men's Clothing Industry under the Code by citing the following figures: (*)

Period	Number of Workers Employed	Total Man-Hours Worked Per Week	Average Weekly Earnings	Total Weekly Payroll
March 1929	154,135	5,548,860	$24.82	$3,825,631
March 1933	109,610	3,167,729	$12.68	$1,389,855
March 1935	147,066	4,897,298	$22.04	$3,242,011

(For additional statistical data bearing upon employment, wages and hours during the Code period, see Chapter II, pages 93-111.)

(*) Source: Code Authority estimates based on U. S. Census and Bureau of Labor Statistics figures.

CHAPTER VI

TRADE PRACTICES

I. CODAL TRADE PRACTICE PROVISIONS

The Men's Clothing Code as originally approved carried provisions regarding only two practices under the title "fair trade practices" and these are found in Article XII as follows:

> "The following rules of fair trade practices are hereby established for the clothing industry:
>
> "(a) The sale of garments on consignment is prohibited as an unfair method of competition. The term "consignment" as herein used shall include the delivery by a manufacturer to any distributor, as agent, purchaser, or otherwise, under any agreement or understanding, expressed or implied, pursuant to which the seller retains any lien upon or title to or interest in the goods delivered, or pursuant to which the distributor may at his option return any of the goods or claim any credits with respect thereto. This prohibition shall not apply to contracts entered into prior to July 14, 1933, the term of which expires within one year from the date of the enactment of the National Industrial Recovery Act.
>
> "(b) A manufacturer or a contractor shall not make garments from fabrics, trimmings, and/or other materials owned or supplied by a retail distributor or the agent, representative, or corporate subsidiary or affiliate of such retail distributor; nor shall he manufacture garments from fabrics, trimmings, and/or other materials, the purchase of which is made upon the credit of or the payment for which is guaranteed by such retail distributor or the agent, representative, or corporate subsidiary or affiliate of such retail distributor. This section shall not prohibit the operations of retail distributors owning and operating their own plants, shops, or factories who distribute products manufactured therein directly to consumers."

There was added by Administrative Order on April 14, 1934, a new section to Article XII, known as Section (c), which read as follows:

> "No member of the Industry shall publish advertising (whether printed, radio, display of any other nature), which is misleading or inaccurate in any material particular, nor shall any member, in any way misrepresent any goods (including but without limitation its use, trademark, grade, quality, quantity, origin, size, substance, character, nature, finish, material content or preparation) or credit terms, values, policies, services, or the nature of form of the business conducted."

Article X of the Code reads as follows:

> " On and after the effective date, it shall be unfair competition for any manufacturer in the Clothing Industry, either directly or indirectly, to sell its manufactured product at a price below its

cost as determined without any subterfuge in accordance with sound accounting practice. Cost shall include the cost of piece goods consumed, trimmings, outting, and making; and a percentage on the selling price to cover all overhead."

Article X additionally provided for exemptions in the case of "seasonal clearances of merchandise" specifically defined and the closing out of "discontinued lines or surplus stocks" upon report to the Code Authority.*

II. CONSIGNMENT SELLING

The above-quoted provision of the Code in prohibition of consignment selling in the Industry met with the full approval of both groups which proposed Codes to the Administration. The wording of the provision is almost identical with that suggested by the Industrial Recovery Association. The Clothing Manufacturers Association did not recommend a specific consignment provision, but expressed itself as opposed to consignment selling and described the practice in the following language:

"(a) There has developed a growing evil in the clothing industry commonly known as "Delivery of merchandise on consignment or memorandum" by the manufacturer to the distributor. This was accomplished by any of the following methods: (1) By being billed on consignment or memorandum. (2) By making the distributor an agent of the manufacturer in the sale of the product. (3) By agreement to take merchandise back that remained unused after a given time. (4) By agreement that merchandise unsold after a given time may be exchanged for other goods. (5) By agreement that merchandise unpaid for within a given time may be reclaimed or returned and other and various agreements designed to weaken or modify the usual terms upon which an order for the manufacture and sale of merchandise to cover the requirements of the distributor is given to the manufacturer."(**)

The Clothing Manufacturers Association, in further support of the proposal to eliminate consignment selling from the Industry, argued in the pre-Code hearings that consignment selling was unfair to both the retailer and the manufacturer. It was contended that a manufacturer selling on consignment in a case where the retailer got into financial difficulty could withdraw his merchandise without risk of great loss whereas the manufacturer selling outright stands to lose to a greater extent. If the retailer was strong financially and bought on consignment, it was asserted that this had a tendency to encourage the accumulation of unmanageable surpluses. Finally, it was asserted that the practice of shipping goods for a few days for special sales usually

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(*) For a discussion of machine hour provisions in the Code, see Chapter V, page

(**) Code submitted by the Clothing Manufacturers Association to the Administration, July 19, 1933. (Men's Clothing Code Files.)

resulted in a very low price with the consequent forcing-down of wage rates.(*)

While no organized objection to a codal provision outlawing consignment selling was in evidence during the writing of the Code, later the Woolens and Trimmings Distributing Trade made some effort to obtain modification of the adopted provision expecially as concerned the Tailors-to-the-Trade branch of the industry.(**)

The Woolens and Trimmings Distributing Trade was anxious to continue a practice existing prior to the Code which made possible sales in large quantities to individual manufacturers with widespread outlets built up by consignment selling. Nevertheless, the Code Authority advised the Administration that no change was favored "in view of the unanimous opinion of that branch of our Industry (Tailors-to-the-Trade)."(***)

By Administrative Order, five separate firms have been granted exemption in the consignment selling provision of the Code. These firms, with date of exemption and number of Administrative Order relating thereto, are listed as follows:

S. Makransky & Son, Inc., Philadelphia, Pa. August 2, 1934, Administrative Order No. 15-32

Hickey-Freeman Co. and Cohen Goldman Co., New York City. August 28, 1934, Administrative Order No. 15-34

Moritz and Winter Co., Milwaukee, Wisconsin. January 8, 1935, Administrative Order No. 15-48

Levy Bros. & Adler Rochester, Rochester, N. Y. January 12, 1935, Administrative Order No. 15-32

The Men's Clothing Code Authority has consistently refused to approve any requests for exemption under the consignment selling provision of the Code. The one and only slight deviation from this policy is noted in connection with the Code Authority's approval of the proposed extension of the exemption granted to Hickey-Freeman Co. and Cohen, Goldman Co., under Administrative Order No. 15-34.(****)

(*) Testimony of J. G. Hickey, Men's Clothing Hearing of July 26, 1933, Transcript, Pages 63 and 64.

(**) Transcript of "Informal Conference between Representatives of Men's Clothing Industry and Woolens and Trimmings Distributing Trade, October 11, 1934." (Men's Clothing Code Files.)

(***) Letter dated December 6, 1934, from George L. Bell, Executive Director, Men's Clothing Code Authority, to Deputy Administrator M. D. Vincent. (Men's Clothing Code Files.)

(****) Letter dated March 3, 1935, from Morris Greenberg, Executive Director, Men's Clothing Code Authority, to Walter E. Woodford, Jr., Assistant Deputy Administrator. (Men's Clothing Code Files.)

A brief review of the exemptions granted under Article XII, Section (a) of the Code, as listed above, will present more definitely the extent and character of consignment selling in the Industry.

A. The case of S. Makransky and Sons, Incorporated.

The Makransky case is important in that it established a precedent in the Industry, and concerns more individual establishments than all the other cases combined. The Administrative Order of August 2, 1934, granted the firm's application on condition that sales be continued only to regular customers and that pending an investigation into all aspects of the application. The applicant had suggested complete exemption for a period of one year, stating that it had approximately 240 consignment accounts which could not be reduced to an open credit plan. It was asserted that consignment selling represented $1,200,000 out of a total of $3,345,000 and that to change the methods of operation immediately would result in distress merchandise being thrown on the market and would cause the unemployment of 500 or 600 manufacturing employees.

The investigation provided for in Order No. 15-32 was completed prior to September 14, 1934, according to Report of Executive Director Bell to the Code Authority in which he stated, "The facts as produced in the reports seem not to warrant the granting of any further exemption, and we filed a formal request for Hearing on the matter, should the Administrator decide that there should be an exemption granted." The Code Authority's views did not prevail, however, as on December 24, 1934, through Administrative Order No. 15-45 the exemption of the Makransky firm was continued to June 15, 1935, and provided that 133 firms, the names of which were filed with the National Industrial Recovery Board, might be sold goods on consignment, these being accounts which could not be liquidated by June 15, 1935, "without undue hardship and financial loss."

B. Cases of Hickey-Freeman Co., New York; and Cohen-Goldman Co., New York.

The Hickey-Freeman Company and the Cohen-Goldman Company were granted permission by Administrative Order No. 15-34, dated August 28, 1934, to ship goods on consignment, with the right to petition for a further period of six months. The petitioners indicated that they favored the consignment provision of the Code and believed that as a rule merchandisers should assume retailers' risks. They asked an exemption, however, in the case of the one firm to whom they had been shipping on consignment for two years. The firm was represented to be old and of excellent reputation, slowly recovering from financial embarrassment due to the depression, but for which additional time was necessary for it to demonstrate its worth and possibly attract new capital. Early in March 1935, the interested parties requested a six months' extension of the original exemption and presented in support

thereof the recommendation of the Code Authority.(*) This extention was granted by Administrative Order No. 15-64, dated April 1, 1935, upon the same terms as the original exemption.

C. Case of Moritz and Winter Company.

Moritz and Winter, through Administr tive Order No. 15-48, dated January 8, 1935, was privileged to ship on consignment to nine firms, the names of which are on file with the National Industrial Recovery Board, to June 15, 1935. These nine accounts were found by the Administration to be those "which could not be liquidated by June 15, 1935, without undue hardship and financial loss." This finding was made after the Company had submitted a detailed analysis and description of each account.

D. Case of Levy Brothers and Adler Rochester.

Levy Brothers and Adler Rochester upon application was granted exemption from Article XII, Section (a) by Order No.15-52, dated January 12, 1935. The Order provided that consignments could be made to the one firm named in the Order up to June 15, 1935. The applicant, as in the other cases, presented details concerning its business relations with its customer showing the latter's need of financial assistance.

On March 5, 1935, the Administration was asked to grant an exemption from the consignment provision of the Code to Waldman & Sons, New York City. In accordance with usual Administrative procedure, the case was referred to the Code Authority for recommendation.(**) On March 11, 1935, the Executive Director of the Code Authority advised: "The attitude of our Code Authority has been consistent on this point. It has disapproved similar requests and feels that it cannot, in fairness, approve this request, nor does it wish to establish a precedent by recommending the granting of this petition." The Administrator, relative to this request for exemption directed an inquiry to the petitioner asking that the firm "advise us when you last sold this firm goods on consignment. Will you please also indicate what, if any, newly developed circumstances justify an exemption be granted at this time."

E. Complaints Arising From Consignment Exemptions.

On March 1, 1935, Mr. F. M. Curlee, Counsel to the Industrial Recovery Association, made a complaint relative to the exemptions from Article XII, Section (a) by the Administration. The complaints were that there was no legal justification for keeping secret the names of the 133 firms filed with the National Industrial Recovery Board, to which Makransky was selling on consignment and that orders of members of the Industrial Recovery Association had been cancelled by retailers who had

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(*) Letter dated March 2, 1935, from Morris Greenberg, Executive Director, Men's Clothing Code Authority, to Walter E. Woodford, Jr., Assistant Deputy Administrator. (Men's Clothing Code Files.)

(**) Letter dated March 5, 1935, to Morris Greenberg, Executive Director, Men's Clothing Code Authority. (Men's Clothing Code Files.)

special arrangements with the Makransky firm not available to retailers generally.

In reply to the above complaints on March 5, 1935, Deputy Administrator M. D. Vincent advised Mr. Curlee that the matter of making public the names of the Makransky firms customers had been referred to the Legal Division, which advised that the names were confidential. Additionally, it was explained that if the facts are as reported by Mr. Curlee, they constitute the basis for an application to terminate or modify the Makransky exemption. It was suggested that the members of the Industrial Recovery Association make such application without delay.

Relative to this complaint a letter was addressed to the Makransky firm by the Administration advising of the general complaint and requesting that the Company report as to how many of the 133 firms still remain on the Company's books and the number of firms without a source of credit and to which consignment shipments are still made.(*)

III. CUT, MAKE, AND TRIM

Article XII, Section (b) of the Code, above-quoted, was designed to outlaw a practice which had developed in the Industry, relative to which there was close agreement between the exponents of the two Codes offered for Administrative approval. This practice is generally referred to as manufacturing on a "cut, make, and trim basis," and is described and criticized by the provision relating thereto and found in the Code proposed by the Clothing Manufacturers Association, as follows:(**)

> "There has developed in the clothing industry a pernicious practice on the part of a certain class of distributors to manufacture clothing without the usual responsibility and obligations that a producer in the industry owes to labor of giving labor decent hours of work, fair wages, and sanitary working conditions. A distributor by exerting price pressure on these operators, forces the price of labor down to a point which has become a menace to the industry and labor. This is accomplished by:
>
> (1) The distributor buys the cloth and farms it out to fly-by-night and irresponsible persons who carry no annual overhead and who shift their plant from place to place, making orderly supervision of hours of work, wages, and sanitary labor conditions in their plants impossible. The cloth is cut by these irresponsible contractors, trimmed and made up into garments. This evil has grown and threatens the legitimate distributor and producer. (2) The establishment of credit

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(*) Letter dated March 12, 1935, to S. Makransky & Sons, Inc., from Walter E. Woodford, Jr., Assistant Deputy Administrator. (Men's Clothing Code Files.)

(**) Code submitted by the Clothing Manufacturers Association to the Administration, July 19, 1933. (Men's Clothing Code Files.)

by the distributor for the benefit of the so-called manufacturer with the woolen mills so that while in theory the goods are charged to the manufacturer they are in fact purchased and paid for by the distributor or with money advanced by the distributor to the manufacturer with which to pay for such merchandise. (3) Or any subterfuge which results in a contract for manufacturing on a "cut, make, and trim basis" are unfair practices.'

"The foregoing provisions shall not be construed to prevent a retailer from selecting or ordering any cloth for the account of a manufacturer, but the cloth so ordered or selected must be paid for by the manufacturer, and the price for which the cloth was purchased must be included in the cost of the completed garment, subject to the uniform cost accounting practices provided by the code."

As above stated, both associations proposing codes condemned the practice of "cut, make, and trim." With respect to the last paragraph of the proposed clause above-quoted, the Industrial Recovery Association states: "We believe that the concluding sentence of the U.S.A. Code provision emasculates the section. We believe the prohibition should be made unqualifiedly as in the Industrial Recovery Code."(*)

The Industrial Recovery Code had suggested an "unqualified" prohibition of the "cut, make, and trim" practice in the following provision:(**)

"The manufacture of garments from fabrics, trimmings, and other materials owned or supplied by a retail distributor, or the agent, representative, or corporate subsidiary or affiliate of such retail distributor, is prohibited. The manufacture of garments from fabrics, trimmings and/or other materials the purchase of which is made upon the credit of, or the payment for which is guaranteed by, such retail distributor, or the agent, representative, or corporate subsidiary or affiliate of such retail distributor, is prohibited. This section shall not prohibit the operations of retail distributors owning and operating their own plants, shops or factories who distribute products manufactured therein directly to consumers."

In the July 26, 1933, hearing pursuant to the adoption of a Code, Mr. Victor Riesenfeld, spokesman for the Clothing Manufacturers As-

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(*) Statement of the Industrial Recovery Association to Administration, February 2, 1935, Exhibit 6, page 107. (Men's Clothing Code Files.)

(**) Code submitted to the Administration by the Industrial Recovery Association of Clothing Manufacturers, July 19, 1933. (Men's Clothing Code Files.)

sociation, summarized the reasons for prohibition of the "cut, make, and trim" practice as follows:(*)

> "It has been indulged in in most instances by retailers for the purpose of underselling their competitors, or where the lower selling price than the generally accepted standard is the main consideration for getting business. The pressure of competition in forcing down the cost of cutting, making, and trimming has become a menace to labor and to industry. The special type of contractor or manufacturer doing this type of work has been for the most part the most irresponsible."

A. Proposed Amendment to Cut, Make, and Trim Provision.

For several months after the adoption of the Code, no complaints were made to the Administration respecting the codal provision which had presumably outlawed the "cut, make, and trim" practice. On recommendation of the Code Authority, however, a public hearing was held in Washington, January 3, 1934, with the view to broadening and strengthening this clause of the Code. The Code Authority suggested an amendment to Article XII, Section (b) which was designed to bring jobbers and wholesalers of men's clothing under the same restrictions which the existing codal provision placed upon retailers, giving the same reasons therefor as had been offered in behalf of the original provision. It was further asserted that "the clothing industry is subject to unfair competition and this is one of the elements we have discovered should be amended and corrected."(**)

As a further reason for asking the amendment, counsel of the Code Authority stated "***without authoritatively stating so, the Code Authority has discouraged in a large number of instances the practice of cut, make, and trim. The only reason I come before you now and ask for the amendment is because I feel that the legal language of the Code might not be sufficient to warrant the interpretation placed upon it.(***)

It developed in the course of this hearing that the proposed amendment would effect the operations of not more than thirty-five firms at the most, and counsel for the Code Authority testified that "the cut, make, and trim business in the Clothing Industry is not yet Wide-

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(*) Transcript of Hearing on Men's Clothing Code, July 26 and 27, 1933, Pages 93 and 94.

(**) Transcript of Hearing on Men's Clothing Code, January 3, 1934, Statement of David Drechsler, Counsel, Men's Clothing Code Authority, Page 7.

(***) Transcript of Hearing on Men's Clothing Code, January 3, 1934, Statement of David Drechsler, Counsel, Men's Clothing Code Authority, page 45.

spread."(*)

Inasmuch as the chief argument advanced in favor of the proposed amendment was that the jobbers and wholesalers engaged in the manufacture of clothing were not economically responsible for the maintenance of labor standards, the question of responsibility under the Code definition from a legal standpoint arose and was the subject of much debate. The legal adviser to the Administration gave the opinion that "whether he is called a contractor or a wholesaler, or whatever he may be called, so long as he is engaged in making these garments, he is covered by the Code."(**)

Counsel for the jobbers and wholesalers present took a like view and reasoned that they had subscribed to the Code provisions in the past and considered themselves legally bound to do so. They contended that the proposed amendment would result in making illegal their business of "manufacturing" which consisted only in planning and directing the production, whereas all technical operations were performed by hired contractors or manufacturers.

The labor adviser to the administrator argued that the jobbers and wholesalers were not manufacturers as they claimed--but simply merchants-- and that it was by reason and experience impossible to hold these people effectively responsible for labor provisions of the Code. (***) The labor adviser also argued that it was labor's understanding from the inception of the Code that the "cut, make and trim provision was intended to cover the whole field."(****)

The consumers' adviser to the Administration expressed opinions in opposition to the proposed amendment on the grounds that its adoption would remove "a very preferential price differential in this industry, as the contractors certainly could produce garments at a lower price than the conventional manufacturer."(*****) It was added that the amendment would restrict the production of garments which are probably favorable in price to the public.

The Administrator toward the close of the hearing gave expression to his views in stating that "this Amendment suggested will do harm to small producers."(******)

(*) Transcript of Hearing on Men's Clothing Code, January 3, 1934, statement of David Drechsler, Counsel, Men's Clothing Code Authority, page 8.

(**) Transcript of Hearing on Men's Clothing Code, Jan. 3, 1934, Page 19.

(***) Transcript of Hearing January 3, 1934, Page 30.

(****) Transcript of Hearing January 3, 1934, Page 46.

(*****) Transcript of Hearing January 3, 1934, Page 74.

(******) Transcript of Hearing January 3, 1934, Page 75.

It was suggested also by the Administrator that the evils aimed at were still "hypothetical dangers" which could be dealt with when the occasion actually arose.

The final outcome of this hearing on the "cut, make, and trim" provision of the Code is best explained in the words of the Deputy Administrator in charge, as found in a memorandum addressed to the Administration Member of the Men's Clothing Code Authority, as follows:(*)

> "The result of the hearing on the Cut, Make and Trim Amendment to the Men's Clothing Code Authority was a reference back to the Code Authority.
>
> "At the hearing it developed that certain concerns having contracts with Hillman would be put out of business. This was not the intent of the Code Authority, nor the desire of either Hillman or Drechsler.
>
> "It seemed satisfactory to all, therefore, that the matter be referred back to the Code Authority and that some other way be devised to accomplish the purpose desired without possibly doing wanton injury to any business."

(*) Memorandum of January 4, 1934, from Earl Dean Howard, Deputy Administrator, to B. H. Gitchell, Administration Member. (Men's Clothing Code Files, under Amendments A-H.)

B. THE SEARS ROEBUCK EXEMPTION CASE. (Lower Case)

Upon the application of Sears Roebuck Company, of Chicago, for exemption from the "cut, make, and trim" provisions of the Code a public hearing on the matter was held in Washington May 29, 1934. The Company based its appeal on the contention that hardships would be suffered if woolens could not be bought for contractors; that the company did not desire to give up its old manufacturers, especially in that these "small manufacturers are better sources of supply for us because of the fact that our business is more valuable to them, and therefore they are willing to adapt their patterns, sizes, styles and manufacturing details to our requirements;" that through present arrangements, the company has been able to supply the low income class of customers with good quality clothing at low prices---; that it is necessary "to place orders for large quantities of cloth before mills make their regular showing to the trade;" that catalogue commitments must be protected by the company itself since the manufacturer would not know what quantities to buy even though financially able." (*) In the testimony of Sears Roebuck it was brought out that 60 per cent of their clothing business would be affected by this codal provision. The Mail Order Association of America, Inc., Joined with Sears Roebuck, not in requesting an exemption, but in contending that the entire codal provision should be removed from the Code, pointing out that confusion in the early writing of codes had caused them to overlook protests at that time, but that as early as March, 1934, verbal and written protests had been made to the Administrator stating that the codal provision was considered "unfair and discriminatory" and that an amendment was in order.(**)

By Administrative Order No. 15-17, dated July 19, 1934, Sears Roebuck was denied the requested exemption. The Deputy Administrator advised in support of this order that the hardship suffered by Sears Roebuck did not jeopardize their clothing business and that other distributors have the same claim to exemptions, which, if granted, would impair the codal provision. Thus, it was pointed out that the only issue heard was that of the requested exemption and that the codal provision was not on trial. The report of the consumers' adviser attached to the Order of denial recommends the granting of the requested exemption on the grounds that a denial would work a hardship. The Research and Planning Division advised in favor of exempting the applicant and others similarly situated on the ground of Research and Planning's objection to the original incorporation of the provision in the Code.

C. PROPOSED INTERPRETATION OF CUT, MAKE, AND TRIM PROVISION(Lower case)

The Administration Member of the Men's Clothing Code Authority, on

(*) Transcript of Hearing May 29, 1934, Sears Roebuck Co. Application for Exemption, Pages 18, 19 and 20.

(**) Transcript of Hearing May 29, 1934, Sears Roebuck Applicant for Exemption, Page 12.

October 15, 1934, advised the Administrator that the Code Authority wished to amend Section (b) of Article XII of the Code, so that "It should not apply to such manufacturers who make garments for tailors-to-the-trade and special order houses when such garments are made to measure for the individual customer."(*) This proposed amendment carried the approval of the Administration Member. The Deputy Administrator referred this matter to the legal adviser, who reported thereon as follows: I agree with the principle involved in this interpretation. Nevertheless, I feel that this interpretation in effect amends the Code provision and I believe that the proper remedy is an amendment to the Code rather than the interpretation."(**) Subsequently this proposed interpretation was submitted as an amendment and was noticed to be heard April 15, 1935.

IV THE COST FORMULA

As indicated at the beginning of this Chapter, the Code carries a selling below cost prohibition. The Code Authority, early after its establishment, appointed a Committee on Cost Accounting charged with the responsibility of devising a cost formula upon the basis of which Article X could be enforced. This Committee consisted of the following representatives of the Industry:

Julius H. Levy, Executive Secretary, New York Clothing Manufacturers Exchange.

Samuel Browne, Comptroller, Hart, Schaffner & Marx, Chicago.

Wm. B. Flickstein, Secretary, Philadelphia Clothing Manufacturers Association, Inc.

Jerome I. Udell, Max Udell Sons and Co., New York.

Isadore Wolrich, New York Knee Pants Co.

Harry C. Frenceau, Secretary and Treasurer, B. Kuppenheimer and Co., Inc., Chicago.

John D. Stevenson, Secretary and Treasurer, Fashion Park Manufacturing Co.

On November 8, 1933, the above Committee reported to the Code Authority that various markets and records had been studied with extreme care and that recognized firms of certified public accountants had cooperated by making analyses from their statistical records. The results of the investigation and report were summarized as

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(*) Letter from B. H. Gitchell, Administration Member, To Dean G. Edwards Deputy Administrator, dated October 15, 1934. (Men's Clothing Code Files.)

(**) Memorandum dated October 26, 1934, from A. H. Barenboim, Assistant Counsel, to Dean G. Edwards, Deputy Administrator, (Men's Clothing Code Files.)

follows: (*)

> "In determining the 'irreducible minimum,' the committee has been guided by the belief that it was not the intention of the Code to protect inefficient manufacturers operating under the highest overhead, or to base the formula on the records of a small number of manufacturers who may be operating at the lowest overhead, but to use as a basis the average by and large of a fair cross-section of the entire industry over a period of the last five years."

> "A study of all of the figures led to the decision that the 'irreducible minimum' for the computing the total cost of a garment should be arrived at by adding to the prime cost (woolens, trimmings, tailoring, cutting and sponging) an amount equal to 5 per cent of such prime costs for General Manufacturing Overhead, and by adding to the new total so obtained an amount equal to 11.11 per cent for Selling and Administrative Overhead."

In order to place contract shops and inside shops upon a fair competitive cost basis the Committee further recommended:

> "***as a preliminary step, in order to enable inside shop manufacturers to properly compute the prime costs--that a minimum of 20 per cent be officially approved as the overhead that shall be added to productive labor by an inside shop manufacturer in arriving at the cost of tailoring. Cost of 'sewing' shall then be added as a component part of the total tailoring costs."

The Committee recommended that the figure 5 per cent for General Manufacturing Overhead and the figure 11.11 per cent for Selling and Administrative Overhead be mandatory. Attention was especially directed to the fact that Selling and Administrative Overhead classifications did not include advertising and that the formula "makes no provision whatsoever for profit and is therefore not to be considered as a recommended sales price."

It is not clear exactly when the Code Authority's cost formula was submitted for Administrative approval. However, the Executive Director reported to the Code Authority on January 8, 1934, that the formula had not been approved, adding:" (**)

(*) Report of Cost Accounting Committee of the Men's Clothing Code Authority. (Men's Clothing Code Files.)

(**) Report of Executive Director to the Code Authority, January 8, 1934. (Men's Clothing Code Files.)

"***I brought the matter to the attention of several of the higher officials pointing out that it was unfair to leave us in our present situation as the 'selling below cost' provision in our Code is practically meaningless unless we have some formula."

Again on September 14, 1934, the Executive Director reported to the Code Authority: (*)

"As you know they disapproved the formula we submitted and also informed us that they were going to rewrite our entire clause on the subject. I have had the matter up with everybody concerned at Washington but the only response that I can get is that the whole matter of selling below cost in our code, and in many other codes, is still being considered by the Legal Department."

In response to various inquiries made of the Administration as to what had been done relative to re-drafting the cost provisions of the Men's Clothing Code, the Deputy Administrator on September 17, 1934, advised Mr. Bell, Executive Director, of the general Administrative policy in regard to costs by forwarding release No. 5600 with the comments: "I question whether or not the open price filing provisions would be practicable in the Men's Clothing Industry. It appears, however, that an application of the cost and price cutting provisions, as outlined in No. 228 (office memorandum), should be of great value to you." One week later the Deputy Administrator advised an official of the Code Authority that "your code contains the provision regarding selling below cost and we feel that you should attempt to enforce this provisions and if this should prove inadequate, it should be amended in accordance with the latest policy of administration." (**)

On October 8, 1934, the Administrator in reviewing the history of the submitted cost accounting system summed up the opposition to the proposed formula as follows:(***)

(*) Report of Executive Director to the Code Authority, January 8, 1934. (Men's Clothing Code Files)

(**) Letter dated September 25, 1934, from M. D. Vincent, Deputy Administrator, to Comptroller H. K. Herwitz. (Men's Clothing Code Files.)

(***) Letter dated October 8, 1934, from M. D. Vincent, Deputy Administrator, to Mortimer Horowitz, Assistant Counsel Men's Clothing Code Authority. (Men's Clothing Code Files)

"I see nothing in the Men's Clothing Code which would permit the Code Authority to stipulate a mandatory overhead percentage. Regardless of the merit of the particular percentages chosen, the procedure would appear to be ultra vires."

This statement of the Deputy Administrator was in line with opinions expressed by his advisers. The Research and Planning Division as early as January 29, 1934, had expressed this view and the Consumer Adviser on January 30, 1934, stated: "Article X refers to cost elements which are those of the manufacturer himself, thus, the standard rate of overhead which is recommended by the reports of the committee on cost accounting should not be made mandatory on every member of the industry."

(a) Uniform Accounts

The executive Director of the Code Authority, on August 29, 1934, pointed out to the Administration the difficulty of securing adequate information from certain manufacturers and contractors who failed to keep time cards for more than one or two months, and inquired whether or not the Administration would not order manufacturers and contractors to keep records for a period of one year based upon the codal provision Article XIII, Section (d) clause 1 which empowered the Administrator to require "***the keeping of uniform accounts as may be required to secure the proper observance of the Code***." The Executive Director argued that such a requirement would not be as drastic as an order "requiring the keeping of uniform accounts."*

This inquiry from the Code Authority elicited from the Administration the response that "If the Code Authority will formally recommend a ruling in this regard, this office will attempt to obtain a final determination."**

V. COMPLIANCE WITH TRADE PRACTICE PROVISIONS

The Men's Clothing Code Authority early recognized the impossibility of attempting to enforce Article X of the Code especially in that the proposed cost formula was not approved by the Administration. On July 12, 1934, the Code Authority advised the Compliance Division that "Our investigators with reference to this provision are concerned largely with whether the manufacturer lives up to the labor provisions of the code. We have not attempted to enforce

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(*) Letter dated August 29, 1934, to John R. Beecroft, Assistant Deputy Administrator, from George L. Bell, Executive Director, Men's Clothing Code Authority. (Men's Clothing Code Files.)

(**) Letter dated September 15, 1934, from H. D. Vincent, Assistant Deputy Administrator, to Code Authority. (Men's Clothing Code Files.)

the selling-below-cost provisions of the code as such." (*). At this time, it was reported by the Code Authority that approximately 106 complaints on selling below cost had been received up to July 12, 1934.

VI. DROPPED LINES OR SURPLUS STOCKS

On February 8, 1935, the Code Authority advised the N.R.A. Textile Division that inasmuch as the Code Authority's cost formula had not been approved, the Code Authority could not proceed with its report under Article X with respect to dropped lines or surplus stocks.

Compliance with the consignment and "cut, make, and trim" clauses of the Code have been covered in this Chapter. Nevertheless, an examination of the total number of trade practice complaints as reported by the Code Authority to the Washington Compliance Office may prove of some interest. The Code Authority's report to the Washington Compliance Office for the period from September 15, 1934, to January 19, 1935, reveals that of the 157 trade practice complaints on hand and docketed (allowing for bookkeeping rejections), in 11 cases no violations had been found, 114 were reported adjusted, leaving 32 on hand, none having been referred to the Compliance Division.

As explained above, the Code Authority made no attempt to enforce the selling below cost provisions of the Code, but used complaints relative thereto as a basis for investigating the likelihood of wage and hour violations. Accordingly, many of the trade practice complaints reported to the Compliance office might have shown up finally as wage or hour complaints. The Code Authority reported on February 2, 1935, that the bulk of old complaints, labor and trade practice, were of a jurisdictional nature arising out of conflicts with the Cotton Garment Code, the Merchant Tailors' Code, and other Codes.

Compliance procedure of the Code Authority is discussed in the Chapters "Code Administration---Organization and Procedure" and"Labor Under the Code."

(*) Letter dated July 12, 1934, from Men's Clothing Code Authority to Stanley I. Posner; Compliance Division Files.

VII. PROPOSED AMENDMENTS TO FAIR TRADE PRACTICE PROVISIONS (Prepared by A. Palma Aaronson)

The Men's Clothing Code Authority early in 1934 appointed a committee on fair trade practices. This committee spent much time conferring with the retail and wholesale groups which were directly concerned with the practices under consideration.

The trade practices being considered and the issues involved can be best set forth by the following summary of the committee's report to the Code Authority on June 8, 1934.*

A. Fair Trade Practices under Consideration by Committee on Fair Trade Practices

Committee reports that conference was held with the National Association of Wholesale Clothing Salesmen, Inc. The last named group urged upon this Committee the necessity of amending the Code to establish fair trade practices in the interests of salesmen. Committee advises Code Authority that it is not incumbent upon Code Authority to act upon the petition of the Wholesale Clothing Salesmen before a decision is made by Administrator Johnson himself upon the matter of traveling salesmen.

This Wholesale Clothing Salesmen's Association likewise urged upon the Code Authority the following amendment to the Code:

"It is an unfair trade practice for a manufacturer to make or grant bonuses, discounts or allowances of any nature to persons, corporations or associations, organized for the purpose of securing member retailers to make purchases for them and in concert for a profit in return for which services such person, corporation, or association are to receive or share any part of such bonuses, discounts or allowances."

The Committee with respect to the last named proposal only comments that we are not certain whether we should again take up with the Administration a proposal that has been rejected.

The Committee on Fair Trade Practices conferred with the National Retail Code Authority regarding the following proposed amendment to the Men's Clothing Code:

1. An amendment designed to prevent the manufacturer from operating from his own loft. Giving consideration to the fact that the manufacturer possibly did have the privilege of selling to his own employees and also allowing the manufacturer to deliver to the customer or consumer certain merchandise on a retailer's order.

The committee advises that they see no objection to the principle involved in this amendment but comments that many retailers throughout the country do not think that such a fair

(*) Report of Committee on Fair Trade Practices, June 8, 1934. (Men's Clothing Code Files.)

trade practice would have teeth in it. But, they would be just as dissatisfied as they are at present if the amendment were put into the Code.

2. It was unanimously agreed between the two committees at least in principle, that an amendment such as follows should be incorporated in the Code.

"If because of the imposition of taxes, excises or governmental charges not now existing, or new laws governing the working hours or compensation of labor or of codes, agreements, regulations, proclamations or orders made pursuant to any existing or new laws, the cost to the seller of filling this order is increased, the buyer agrees to pay such increased cost to the seller."

3. It was agreed between the two committees that final delivery dates should be provided for in the Code, fixing definite dates for spring men's three and four-piece suits, fall overcoats, spring topcoats, and fall topcoats. It was agreed that equitable dates could be worked out between the two groups concerned.

4. The two committees agreed that provision should be made requiring manufacturers to complete spring and summer shipments to the house 30 days earlier than the dates agreed upon in the foregoing proposal, and to ship at least 50 per cent of suits and topcoats to all sections of the country 30 days prior to the final delivery dates specified.

5. The committees unanimously agreed that the Code should be amended to provide that all clothing is to be sold f.o.b. from the city of manufacture.

6. The Men's Clothing Code Authority Committee recommends an amendment to the Code somewhat standard in character relative to the defamation or disparagement of competing manufacturers by falsely imputing to them dishonorable conduct, etc.

7. The Clothing Committee recommends an amendment providing that an order is a bona fide order unless otherwise specified in writing on the face of the order at the time it is given.

8. The committee recommends that if the Code Authority agrees the Joint Committee should set a definite limit of time either 10, 20 or 30 days from the date an order is placed for revisions to be made.

9. Agreed by the two committees to recommend an amendment to the Code which would set a fixed extra charge price on special garments made for customers. "The changes among wholesalers vary, and in some instances retailers pay no extra charge although to cut a garment specially costs the manufacturer between 15 per cent and 20 per cent extra."

10. Agreed by the two committees that there should be an amendment requiring manufacturers to charge customers for the furnishing of

labels when the cost of such labels exceeds 4 cents per label, provided that when combinations "manufacturer and customer" labels are used, no charge should be made the customer, irrespective of cost.

11. The Clothing Committee recommends an amendment to the Code providing for uniform liberal terms, within say 6 per cent for all past due accounts. One definite suggestion made was: "Terms of payment shall not exceed cash discounts of 7-10 e.o.m. from date of shipment." Comment by the committee was to the fact that "we can work out with the National Retail Code Authority the exact phraseology of terms. We do not care to ask them to make a final determination in this until our Code Authority had approved on the principle of such an amendment."

Conferences of the nature above-indicated continued intermittently throughout 1934. On September 14, 1934, Executive Director Bell reported that the Fair Trade Practice Committee had conducted correspondence with various retail organizations concerning practices which the Code Authority had authorized presented to the Administration. Some of the practices were favored and some not. Besides, he reported that visits to offices of some twenty different Code Authorities were made concerning fair trade practice provisions and their workings.

B. The Trade Practice Hearing "10-I."

Certain of the above-discussed trade practices were submitted to the Administration, and on November 20, 1934, the original notice of hearing No. 10-I was sent out. Further notices of adjournment and additions are as follows:*

Notice of Adjournment No. 10-I, December 1, 1934.
Notice of Adjournment No. 10-I, December 29, 1934.
Supplementary Notice of Hearing No. 10-I, December 31, 1934.
Supplemental Notice of Hearing No. 10-I, January 11, 1935.
Revised Notice of Hearing and Notice of Adjourned Hearing No. 10-I, Superseding all previous notices, January 31, 1935.
Supplemental Notice of Hearing 10-I, February 9, 1935.
Notice of Adjourned Hearing 10-I, February 21, 1935.

These several adjournments were the results of requests made by both the retailers and manufacturers due to the Christmas holiday season, the inventory period, the spring showing, and also due to the conflict with the Price and Labor hearings.

Finally on April 15, 1935, a hearing was held in the Raleigh Hotel, Assistant Deputy Administrator Walter E. Woodford, Jr., presiding.

1. The Executive Director's Statement.

Mr. Morris Greenberg, Executive Director of the Men's Clothing Code Authority, successor to George L. Bell, made the following statement at the Hearing:**

(*) Volume I of Transcript of Hearing on Men's Clothing Industry Amendment Proposal, April 15, 1935, Page 2.

(**) Volume 1, Transcript of Hearing on Men's Clothing Industry, April 15, 1935, Page 29.

"If this much-postponed hearing had come off at any of the earlier dates for which it was set, it would have been necessary for me to claim much more of your time than there is now any occasion for me to do. For as we come before you here, we are in the happy position of having secured agreement to the proposals affecting the ready-to-wear division from the associations which comprise the bulk of the nation's clothing distributors.....

"We are proud, Mr. Administrator, to have achieved this triumph of accord with the retailers of our product...We had conferences, repeated conferences, with representatives of the retailers' associations, sometimes with a single official or two, sometimes with a committee, and in those conferences we obtained the retailer's point of view.

"...When we met in Chicago Ten days ago with a committee of the national Retail Clothiers and Furnishers, including its president, Mr. Maurice L. Rothchild, its Executive Secretary, Mr. Allen Sinsheimer, and several prominent members of the Association, we were able to reach complete agreement with them in the course of a couple of hours of extraordinarily frank and friendly give-and-take."

C. Trade Practice Amendments Scheduled for Hearing.

A list of the fair trade practices as set down in the Notice of Hearing No. 10-I, November 20, 1934 is as follows:

"SCHEDULE 'A' PROPOSED AMENDMENTS TO THE CODE OF FAIR COMPETITION FOR THE MEN'S CLOTHING INDUSTRY

"For all purposes of this code, the provisions hereinafter set forth shall constitute unfair trade practices. Any member of the industry, who shall directly or indirectly, through any officer, employee, agent, or representative knowingly use, employ or permit to be employed, or be engaged in any such unfair trade practices, shall be guilty of violation of the code, and be subject to the penalties provided in the Act. The articles of the Fair Trade Practices contained in this code shall constitute uniform conditions of sale of the industry, and it shall be an unfair trade practice to sell in violation of any of such trade practice regulations.

"1. No manufacturer in the industry shall accept returned merchandise for credit, except for defects in materials and/or manufacture; delay in delivery; errors in shipments; or non-conformity to the specifications of the order.

"2. (a) It shall be unfair trade practice to sell merchandise at a cash discount in excess of 7%, ten days E.O.M. (end of month), or 6%, seventy days from date of delivery as specified in the order, or if delivery shall be made later than the date specified in the order, then seventy days from the date of actual delivery; provided, however, that an extension, not to exceed 30 days may be granted to buyers of merchandise for shipment to the following states; Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon,

Utah, Washington, and Wyoming.

"(b) Anticipation shall not be allowed at a rate in excess of 6% per annum.

"3. All members of the industry shall sell merchandise on the Shipping terms of F.O.B., city of manufacture; or when a different method of transportation, such as express, parcel post or airmail, is designated, or made necessary through no fault of the manufacturer, such transportation cost shall be charged to the buyer.

"4. Customer's labels shall not be supplied by the manufacturer, but if furnished to him by the customer, the latter may be credited with the actual cost of the label, but not to exceed two cents (2¢). Where combination 'manufacturer and customer' labels are used, they shall be supplied by the manufacturer without charge to the customer.

"5. Every sales contract or order shall contain the following provisions:

"(a) 'Prices on the undelivered balance of this order are subject to increase due to any Federal or State Law taxing processed or raw materials, or decreasing working hours or increasing compensation of labor.'

"(b) 'This order when accepted is not subject to revision or cancellation except for failure to deliver in accordance with conditions of sale or unless so specified on the face hereof.'

"6. No member of this industry shall sell his products at retail unless he operates a separate establishment maintained for this purpose and regulated by the provisions of the Retail Code. To constitute 'a separate establishment', such an outlet must be stocked with merchandise specifically assembled for distribution to the consuming public, and must employ the services of one or more employees exclusively engaged in selling such merchandise to the consumer trade.

"The foregoing prohibition of selling at retail shall not apply to (a) the 'Tailors-to-the-Trade' or 'Special Order Houses' of the clothing industry, (b) to retail distribution of clothing on contract bid in wholesale quantities; or to (c) the sale of uniforms to individuals in the military or naval establishments of the U. S. Government, or in the uniformed departments of any governmental agency; or (d) to sales made direct to the consumer by outside salesmen or canvassers; or (e) to bona fide sales to a manufacturer's own employees of garments for the personal use of such employees.

"7. No garment shall be manufactured of woolen or worsted material or of summer and washable fabrics, which have not been sponged in the piece."

The original Notice 10-1, dated November 20, 1934, contained no Schedule "B". However, in the December 31, 1934, Supplemental Notice of Hearing No. 10-1 Schedule "A" was an additional amendment proposed by the Labor Advisory Board that requested Article VII be deleted and the standard clause

> "that every employer make reasonable provisions for the safety and health of his employees."

be inserted in lieu thereof.

In January 11, 1935, Notice, we find a further Labor Advisory Board proposal that

> "No person under eighteen years of age shall be employed at operations or occupations which are hazardous or dangerous to the health".

It was in the Revised Notice of Hearing and Notice of Adjournment of the Adjourned Hearing 10-1 (Superseding all previous Notices) January 31, 1935, that the two above-mentioned proposals by the Labor Advisory Board were incorporated into the Notice as Schedule "B". (*)

1. Retailers' Objections to Proposed Trade Practice Amendments.

The amendments as proposed and submitted caused a great number of letters of protest to be sent in by retailers. The National Association of Retail Clothiers and Furnishers published in the "National Clothier," a trade journal, their opinion of what the effect of the proposed amendments would have upon the retail clothing merchants of the country. As a result, a great number of letters of protest were sent to the Deputy Administrator in charge of the Code.

A typical letter of protest is cited below: (**)

> "We urgently protest proposed amendments to the clothing manufacturers code believing they are inequitable and unfair; that they would increase costs to the retail clothier and lead to higher prices to the consumer.
>
> "The only provision taking the retailers problems into consideration fails to give adequate protection to the retail store against manufacturers selling at retail.
>
> "The provision permitting manufacturers to raise prices after contracts have been made would cause great uncertainty to confusion in the industry and would make the placing of advance orders almost impossible.

(*) Transcript of Hearing on Men's Clothing Industry, April 15, 1935, Page 19.

(**) J. F. Gregory & Sons, Rockland, Me., to S. H. Ourbacker, Assistant Deputy Administrator, October 31, 1934. (Men's Clothing Code Files)

"Limits of term and discounts, label and shipping provisions would increase costs that cannot be borne by the merchant today.

"We protest these provisions most vigorously as we believe that the average merchant has about all he can bear at the present time."

Those fair trade practices actually presented for consideration at the hearing "As Revised in Conference with the National Association of Retail Clothiers and Furnishers, April 5, 1935," are as follows:(*)

"For all purposes of this Code, the provisions hereinafter set forth shall constitute unfair trade practices. Any member of the industry who shall directly or indirectly, through any officer, employee, agent, or representative, knowingly use, employ or permit to be employed, or be engaged in any such unfair trade practices, shall be guilty of violation of the Code, and be subject to the penalties provided in the Act. The articles of the Fair Trade Practices contained in this Code shall constitute uniform conditions of sale of the appropriate division of the Industry, and it shall be an unfair trade practice to sell in violation of any such trade practice regulations.

"1. (a) No manufacturer in the industry shall accept returned merchandise for credit, except for defects in materials and/or manufacture; delay in delivery; errors in shipment; or non-conformity to the specifications of the order.

(b) The merits of each case of returns shall be determined by the manufacturer and retailer involved; but in the event of their failure to agree, dispute shall be referred to arbitration. Each party to the dispute shall appoint one representative to an arbitrating committee, and agreement between them shall be binding. In case of disagreement the two arbitrators shall select a third as referee, and his decision shall be binding; provided, however, that returns totalling less than $100. from a single shipment shall not be subject to arbitration.

"2. Customer's labels shall not be supplied by the manufacturer, but if furnished to him by the customer, the latter may be credited with the actual cost of the label, but not to exceed four cents (4¢). Where combination 'manufacturer and customer' labels are used, they shall be supplied by the manufacturer without charge to the customer.

"3. Every sales contract or order shall contain the following provision:

'This order is subject to the Fair Trade Practice provisions of the Men's Clothing Code.'

"4. No member of this industry shall sell his products at retail unless he operates a separate establishment for this purpose and regulated by the provisions of the Retail Code. To constitute a 'separate establishment', such an outlet must be stocked with

(*) Transcript of Hearing on Men's clothing Industry, April 15, 1935. Pages 32-38-54-69.

merchandise specifically assembled for distribution to the consuming public, and must employ the services of one or more employees exclusively engaged in selling such merchandise to the consumer trade.

"The foregoing prohibition of selling at retail shall not apply to (a) the 'Tailors-to-the-Trade' or 'Special Order Houses' of the clothing industry; (b) to retail distribution of clothing on contract bid in wholesale quantities; or to (c) the sale of uniforms to individuals in the military or naval establishments of the U. S. Government, or in the uniformed departments of any governmental agency; or (d) to sales made direct to the consumer by outside salesmen or canvassers; or (e) to bona fide sales to a manufacturer's own employees of garments for the personal use of such employees.

"5. No men's or young men's garment shall be manufactured of woolen or worsted material or of summer and washable fabrics, which have not been sponged in the piece."

D. Proposed Trade Practices Submitted by Tailors-to-the-Trade and Retailers' Objections.

At the same hearing Mr. W. C. Fairscott, President of the Main Tailoring Co., Indianapolis, Ind., offered the following amendments for consideration; (*) to apply only "tailors-to-the-trade" and/or "special order houses of the Men's Clothing Industry:

"(1) Transportation charges and insurance shall be added to each bill as a separate item, and paid by the dealer. On C.O.D. shipments, money order fees shall likewise be paid by the dealer.

"(2) Swatch lines put out by 'tailors-to-the-trade' shall not be larger than 77 square inches, nor shall card line samples be larger than 33 3/8 square inches.

"(3) All samples of cloth shall be so labeled as to show the content of cloth so labeled.

"Fabrics labeled 'all wool' shall mean that the fabric so labeled is 100% wool.

"Fabrics labeled 'wool and silk' decorations' shall mean that the fabric so labeled shall be all wool with the exception of the decoration, which shall be silk.

"Fabrics labeled 'wool with rayon decorations' shall mean that the fabric so labeled shall be all wool with the exception of the decoration, which shall be rayon or celanese.

"Fabrics labeled 'wool with cotton mercerized decorations' shall mean that the fabric so labeled shall be all wool with the exception of the decoration, which shall be mercerized cotton.

9782 (*) Transcript of Hearing On Men's Clothing Industry, April 15, 1935, Page 113.

"All other fabrics not specifically included above and containing wool and other fabric substance such as cotton, shall be labeled 'not all wool'.

"(4) Paying money or the equivalent of money to salesmen employed by competing firms for the purpose of enticing them away from the firm of their employment is hereby prohibited.

"(5) No cash advertising allowance shall be made to dealers, but this provision shall not preclude the furnishing of advertising matter for distribution either by the manufacturer or by the dealer."

A copy of the above-listed amendments was sent to the Executive Director of the National Association of Retail Clothiers and Furnishers by Assistant Deputy Administrator Waletr E. Woodford, Jr., requesting consideration by them.

On April 22, 1935, the Association replied: (*)

"Thank you for your letter of April 19.

"Within the past week our committee has had an opportunity to consider the proposed fair trade practice amendments submitted by the Tailors-to-the-Trade group and to be added to the Men's Clothing Code.

"We believe that, in the main, these provisions are not objectionable. In large part they will prehaps be of value in improving the position of the industry.

"On general principles, however, some of the members of our Committee object to the inclusion of the word 'insurance' in the suggested practice #1, on the theory that retailers should have the right to say whether or not insurance shall be added to their invoices.

"With reference to practice #5, some members of our committee believe that cooperative advertising is a matter that should take care of itself -- a matter that should be governed by negotiations directly between the manufacturer and the retailer, since all communities are not alike and all advertising conditions are not the same. There may be instances in which manufacturers may find it to their advantage to engage in cooperative advertising with the retailer or retailers in a given community.

"Other than these suggestions which we lay before you, our committee lends its approval."

(*) Letter from National Association of Retail Clothiers and Furnishers to Walter E. Woodford, Jr., dated April 22, 1935. Consumers' Advisory Board Files, Central Records.

The foregoing fair trade practices that were presented for hearing on April 15, 1935, were never submitted to the various Advisory Boards for their comments, nor were they approved by the National Recovery Administration.

VIII. PROPOSED FAIR TRADE PRACTICES FOR UNIFORM MANUFACTURERS (Prepared by A. Palma Aaronson)

The National Association of Uniform Manufacturers was formed sometime prior to the date the National Industrial Recovery Act was passed by the Congress of the United States of America.

Immediately after its formation, the Association drew up a set of fair trade practice rules which were submitted to the Federal Trade Commission. Some of the fair trade practices were approved and some rejected by the Commission. These rules were never made effective because of the action by Congress of recovery legislation. The Association, upon approval of the Act, made application for approval of a Code of Fair Competition for the Uniform Manufacturing Industry with its accompanying fair trade practice section.

After the hearing, the Association agreed to a merger with the Men's Clothing Industry Code and a section making special provision for administrative autonomy for uniform manufacturers under the Men's Clothing Code Authority was written into the Code as Section XVI: (*)

> "The Men's Clothing Code Authority shall designate the National Association of Uniform Manufacturers to aid the Administrator in the administration of this Code in respect of the manufacture and distribution of uniform apparel and shall make recommendations to the Administrator in respect of the trade practices desirable for that branch of the industry."

In a letter to Dr. Lindsay Rogers, Deputy Administrator, written by Harold W. Schwab, Executive Secretary of the National Association of Uniform Manufacturers, July 28, 1933, is a "Summary of Association Protests Establishing Differences Uniform vs. Clothing Industry," for the purpose of providing the essential data describing the basic differences existing between the Uniform Apparel Manufacturing Industry and the Men's Clothing Industry." (**)

The following comments refer to that part of the letter concerning fair trade practices only. (National Association of Uniform Manufacturers Code as compared with Men's Clothing Code.)

> "Article IV--Labels. Protests against use of same labels as Men's Clothing Code Authority. Asks for own distinctive labels.
>
> Article IX--Sales below Cost. Associations' system varies from Code, due to additional items, as special designing, sketching, higher wages, slower production, and uniform accessories."

The Summary also points out that the Men's Clothing Code does not contain any fair trade practices providing for terms of sale, substitu-

(*) Men's Clothing Code.

(**) Letter dated July 28, 1933, from Harold W. Schwab, Executive Secretary, National Association of Uniform Manufacturers, to Dr. Lindsay Rogers, Deputy Administrator. (Men's Clothing Code Files).

tion of products, misbranding, piracy of design, commercial bribery, and that Uniform Manufacturers are confronted with special problems that manufacturers of men's clothing are not, and therefore ask that due to the following evils, which were steadily increasing, they provide:

"1. That second-hand or obsolete uniforms cannot be accepted as part of the purchase price of new uniforms.

"2. That a manufacturer cannot as a consideration to or inducement for a sale, agree to service, press, or retailor the uniform throughout its life.

"3. That uniforms cannot be altered, cleaned, or pressed below cost.

"4. Uniforms cannot be let, hired, or rented by a manufacturer.

"5. To enter into an agreement with a mill to disguise a certain fabric so that the mill will ask a higher price for it of competitors.

"6. To have a police department or any purchaser specify a fabric for its uniforms unknown to other uniform manufacturers.

"7. To sell for resale to another who violates the terms of our Code.

"This is a very important provision, as often retailers compete directly with the manufacturers.

"We feel that we need, in general the following provisions and have provided accordingly:

"(1) In regard to false and misleading statements.
"(2) Espionage.
"(3) Imitation to competitor's marks.
"(4) Repudiation of contracts.
"(5) Inducing breach of contract.
"(6) Defamation of competitor and disparagement of his products.

"The Executive or Control Committee of the Clothing Manufacturers, in particular, composed mainly of civilian clothing men, totally unfamiliar with the Uniform Industry, would be called upon to decide on technical production and distributive problems about which they knew little or nothing. What possible aid or control could they exercise in the circumstances? Chaos and confusion would inevitably result in the Uniform Industry.

"In general, it will prove disastrous to us if we have to submit confidential data and vital statistics which represent our lifetime's experiences to another industry that competes with us and we not with it."

Harold W. Schwab, Executive Secretary of the Uniform Manufacturers Association, submitted a list of fair trade practices to Assistant Deputy Administrator John R. Beecroft, under date of August 31, 1934, with a request that a public hearing be held "at earliest possible moment." (*) The letter reads in part as follows:

"By approval of Mr. George Bell, Executive Director, of the Men's Clothing Code Authority, we are submitting herewith a list of trade practices which have been approved by the Men's Clothing Code Authority for submission to you to be added to the Men's Clothing Code, when and if approved by the N.R.A., under the terms of Article XVI, and applicable only to the manufacture of uniforms.

"If the Men's Clothing Code Authority have madde application for any similar trade practices to be added to the Code, we will accept their practices and withdraw ours."

The trade practices approved by the Men's Clothing Code Authority for submission to the N.R.A. under the provisions of Article XVI of the Men's Clothing Code, are:

(Applicable to Uniform Manufacturers only)

"1. To sell accessories below cost; cost shall include a fair percentage to cover all overhead.

"2. To sell obsolete or misfit uniform apparel in excess of 3% of the annual sales in the preceding calendar year or more than $5,000.00 in amount in any one year at prices necessary for disposal. Sales exceeding the stated amounts must be reported to the National Association of Uniform Manufacturers prior to disposal below cost.

"3. To cut and make uniform apparel, excepting shirts, or blouses, from fabrics, trimmings and/or other materials furnished by or ordered on the credit guarantee of the buyer excepting on Federal Government contracts.

"4. Substitution of one product for another. Shipping or delivering of products which do not conform to the samples submitted or the specifications prescribed or representations made prior to the securing of orders without the consent of the purchaser thereto.

"5. Terms: To sell uniform apparel as herein defined and/or accessories upon terms other than a maximum of thirty days net, or the allowance of a discount in excess of one per cent for cash payment within ten days from the date of shipment, provided, however, that on direct sales by manufacturer to the consumer an additional period not in excess of 90 days, may be allowed the purchaser for the payment of invoices.

(*) Letter from Harold W. Schwab, Executive Secretary, National Association of Uniform Manufacturers, to John R. Beecroft, Assistant Deputy Administrator, dated August 31, 1934. (Men's Clothing Code Files).

"6. To offer for sale merchandise at a price reduced from a marked-up or fictitious price, with the tendency and capacity to mislead or deceive purchasers or prospective purchasers.

"7. Secret Rebates: The secret payment or allowance of rebates, refunds, commissions, or unearned discounts, whether in the form of money or otherwise, or secretly extending to certain purchasers special services or privileges not extended to all purchasers under like terms and conditions.

"8. Misbranding. Falsely marking or branding of products of the industry with respect to the quality, quantity, grade, or substance of the goods purchased.

"9. False or Misleading Statements. Making or causing or permitting to be made or published, any false, untrue, or deceptive statement, in the form of advertisement or otherwise, concerning the grade, quality, quantity, substance, character, nature, origin, size, or preparation of any product of the industry.

"10. Enticing Employees. To maliciously entice the employees of competitors, with the purpose and effect of unduly hampering, injuring, or embarrassing competitors in their business.

"11. Imitation of Competitors' Marks. To imitate the labels, trade marks, trade names, slogans, or other marks of identification of competitors.

"12. Espionage. To secure information from competitors concerning their business by false or misleading statements or representations, or by false impersonations of one in authority, and by the wrongful use thereof, to unduly hinder or stifle the fair competition of such competitors.

"13. Commercial Bribery. Directly or indirectly to give or permit to be given or offer to give money or any thing of value to agents, employees, or representatives of customers or prospective customers, or to the agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducment to influence their employers or principals to purchase or contract to purchase industry products from

the maker of such gift or offer, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors.

"14. To maliciously induce or attempt to induce the breach of existing contracts between competitors and their customers by any false or deceptive means whatsoever, or to interfere with or obstruct the performance of any such contractual duties or services by any such means.

"15. Defamation of Competitor and Disparagement of Products. To defame competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations to disparage the grade or quality of a competitor's goods.

"16. Confined Fabrics.

(a) To enter into an agreement with a mill to disguise by any special number any standard or special fabric known generally to the trade by a given number and to establish for the fabric identified by the disguised number a price in excess of the current established price for the fabric identified with a number by which it is generally known to the trade.

(b) To induce a contractee or purchaser to use and apply in specifications a number to denote a style of fabric upon which bidding shall be let publicly, which number is not generally used and known to the members of this industry, to denote a known fabric, unless immediately following the date upon which the manufacturer has obtained the consent of the contractee to specify the aforesaid number and said manufacturer (1) submits in writing to the National Association of Uniform Manufacturers the name of the mill manufacturing the product and full information concerning the style thereof, and (2) unless such uniform manufacturer shall, as aforesaid in writing, inform the mill that it may, upon the same price and terms and deliveries, without recourse, liability, or other obligations, quote to all manufacturers bidding, the same price, terms, and/or delivery, and furnish the said fabric to the successful bidder whomsoever he, or it may be.

"17. Piracy of Design. To adopt for one's own use, by photostatic, photographic, or other means

of reproduction, the plates, cuts, or other illustrations contained in catalogues, publications, measure books, folders and/or blanks originated by a competitor.

"18. For a manufacturer of uniform apparel, where two or more manufacturers have been asked to bid, to submit to a prospective purchaser samples of uniform apparel made specially for or to the specifications of a prospective buyer, unless paid for, where the manufacturer has reason to believe or can ascertain that the total quantity of uniform apparel required by the purchaser will not exceed one hundred units; provided, however, that after the successful bidder has been ascertained, he may furnish the necessary sample garments.

"19. To charge less than cost for services rendered to a customer for pressing, cleaning, re-building, repairing, or re-tailoring uniforms.

"20. To accept uniforms of discontinued or obsolete styles or old and second-hand uniforms in part consideration for the purchase price of newly manufactured uniforms, or for merchandise credit or cash.

"21. As a consideration to or inducement for a sale, to service, press, renovate, or re-tailor, throughout the life of the uniform.

"22. To alter and re-build or repair, below cost old uniforms so that the same will be adaptable for use by persons of size other than those for whom their use was originally intended.

"23. By agreement to accept for merchandise or cash credit, or for exchange, uniform apparel as herein defined and/or accessories thereto if once paid for by the buyer.

"24. To manufacture any of the articles defined as "uniform apparel" and to let, and/or rent the same to another.

"25. Repudiation of contracts. To repudiate contracts whether written or oral are business obligations impressed with legal and moral responsibilities and are not to be repudiated by either buyers, sellers, and/or employers.

"26. For any person, firm, or corporation

knowingly to aid or abet another in the use of unfair trade practices."

It was the opinion of Assistant Deputy Administrator M. D. Vincent (*) that the foregoing fair trade practices were "almost without exception applicable to the entire Men's Clothing Industry," and he had suggested to Executive Director of the Men's Clothing Code Authority that fair trade practices be adopted by that body to be applicable to the entire Men's Clothing Industry. The Assistant Deputy Administrator saw the possibility that some of the practices would be applicable to the uniform manufacturers only, but that these could be considered at the same hearing as the generally-applicable provisions.

A brief comment on each of the 26 fair trade practices submitted was made by the Assistant Deputy Administrator at the same time.

On the same date, Assistant Deputy Administrator Vincent in a letter to George L. Bell, Executive Director, Men's Clothing Code Authority, made the statement that "The present trade practice provisions appearing in the Men's Clothing Code seem to be inadequate," and asks to have the Code Authority's reaction to the submitted trade practices for the uniform manufacturers. He also mentions the fact that these (the uniform manufacturers') trade practice almost without exception would apply to the other members of the Men's Clothing Industry.

The National Association of Uniform Manufacturers petitioned the N.R.A. on October 26, 1934, (**) requesting an interpretation of Article XVI of the Men's Clothing Code to the end that the policies and purposes of the National Recovery Act be made more effective by giving the uniform manufacturers autonomy. The Petition contains 41 paragraphs, each paragraph setting forth some general information concerning the Uniform Manufacturers Association, i. e., (1) representing 95% of the total production of uniform manufacturers, (2) that of the 130 manufacturers specializing in uniforms, 99 are members of the Association, representing 81.7% of the volume of production, etc., and a running account of the Code as it pertains to the Uniform

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(*) Letter dated September 25, 1934, from M. D. Vincent, Assistant Deputy Administrator, to Harold W. Schwab, Executive Director, National Association of Uniform Manufacturers. (Men's Clothing Code Files.)

(**) Petition of National Association of Uniform Manufacturers. (Men's Clothing Code Files, under Uniform Manufacturers.)

Manufacturers in its attempt to secure autonomy under Section XVI, and its difficulties with civilian manufacturers who occasionally manufacture uniforms. Further, that the Association had secured approval by the Federal Trade Commission of twenty-four fair trade practices to which civilian clothing manufacturers were not complying; also objected to the charge for labels ($5.00 per M) by the Men's Clothing Code Authority, stating that it was not sufficient to operate the Uniform Manufacturing subdivision of the Men's Clothing Code, requesting that the charge of $12.50 per M for regular uniform labels and $15.00 per M for the special order labels be made.

In connection with the foregoing, attention is directed to the recommendations of the Special Committee on Uniform Manufacturers, Branch of the Men's Clothing Industry. (*)

"3. That the enforcement of the trade practice provisions of the uniform manufacturers' branch of the industry be carried on by the Uniform Manufacturers Association, since they are proposing a number of separate trade practices applicable only to their branch of the industry. Out of the income from the sale of uniform labels, the Men's Clothing Code Authority will pay monthly to the Uniform Manufacturers Association a reasonable amount for the cost of enforcing trade practice provisions. If the Code Authority and the Uniform Manufacturers Association cannot agree upon what is a reasonable amount for this purpose, the amount should be determined by the Administrator.

"4. That the amendment to the Men's Clothing Code proposed by the Uniform Manufacturers Association to grant more or less complete autonomy to the uniform manufacturers' branch of the industry be denied by the Administrator. The Committee believes that effective code enforcement demands that there should be more centralization rather than decentralization. So far as the actual provisions of the Code are concerned, the Committee feels that its proposals regarding charges for labels and methods of enforcement of the labor provisions and trade practice provisions could be made effective by the Code Authority since these moot questions have been brought to the attention of the Administration, and since all actions of the Code Authority are subject to review by the Administration, it is felt that

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(*) See Exhibit "I"--Recommendation of Special Committee, September 6, 1934, signed by B. H. Gitchell, Chairman. (Men's Clothing Code Files.)

these matters should be submitted to the Administration for approval before formal action is taken by the Code Authority."

Attention is called by B. H. Gitchell as Chairman of the Special Committee to the fact that one member, Mr. L. A. Hirsch, did not vote on the recommendations as he was in Europe and had attended only the first meeting of the Committee.

Mention has been made above of the twenty-four trade practices that were approved by the Federal Trade Commission, effective March 16, 1934.

In a release for newspapers for March 15, 1934, the Federal Trade Commission announced the approval of fifteen trade practice conference rules and nine others were accepted by the Commission as expressions of industry policies.

By approval, it is understood that the Federal Trade Commission is of the opinion that the several trade practices "setting forth principles of law are enforceable" by the Commission.

By acceptance is meant (in Federal Trade Commission parlance) that the industry has expressed itself, before the Commission, as believing certain practices ethical and desirable. Failure to comply with the accepted practices, however, is not a violation of law.

In its statement to the Industry, the Commission includes the following paragraph.(*)

"The Commission has directed that notice be given that in referring to or quoting trade practice conference rules, the form in which they appear in the Commission's Official Statement should be followed with reference to wording, grouping, numbering and lettering."

The National Association of Uniform Manufacturers submitted to the Administration a list of Fair Trade Practices applicable only to uniform manufacturers, and petitioned for an early hearing. (**) This was evidently done in order to comply with the sug-

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(*) Statement by the Commission, Trade Practice Conference, Manufacturers of Uniforms, March 15, 1934.

(**) Petition and letter to Dean G. Edwards, Deputy Administrator, from National Association of Uniform Manufacturers, dated November 7, 1934. (Men's Clothing Code files.)

gestions made by Assistant Deputy Administrator H. D. Vincent in his letter of September 25, 1934, mentioned above, that the Men's Clothing Code Authority submit its reactions to the proposed fair trade practices, as he (Vincent) thought them applicable to both branches of the Industry.

Then, on January 29, 1935, after the National Association of Uniform Manufacturers had proposed a supplementary Code to the Men's Clothing Industry Code, B. H. Gitchell, the Administration Member of the Men's Clothing Code Authority, advised Acting Assistant Deputy Administrator S. H. Ourbacker that the Men's Clothing Code Authority had formally disapproved the proposed supplementary Code to the Men's Clothing Code submitted by the National Association of Uniform Manufacturers, saying that the Code Authority ratified the report of the Special Committee that had studied the subject. This report recommended that the enforcement of the labor provisions affecting uniform manufacturers be taken over by the Men's Clothing Code Authority staff and only the enforcement of fair trade practices applying to uniform manufacturers be handled by their Association.

He also recommended that the fair trade practices formally submitted by the National Association of Uniform Manufacturers be submitted for hearing and determination by the Administration at the same time that the general fair trade practices applying to the entire industry are taken up for consideration.

A. Fair Trade Practices for Uniform Manufacturers approved by Federal Trade Commission.

A comparison of the fair trade practices as submitted by the National Association of Uniform Manufacturers as compared with those practices approved or accepted by the Federal Trade Commission is hereinafter set forth.

PROPOSED NRA TRADE PRACTICE NO. 1. Trade Practice Prohibited)	COMPARABLE F.T.C. TRADE PRACTICE RULE, GROUP 1, RULE 1.
To sell accessories below cost; cost shall include a fair percentage to cover all overhead.	Selling uniforms or accessories below cost with the intent and with the effect of injuring a competitor and where the effect may be to substantially lessen competition or tend to create a monopoly or to unreasonably restrain trade is an unfair trade practice.
(As suggested, we hereby withdraw our proposed N.R.A. Trade Practice No. 1 and in its stead, offer the F. T. C. Trade Practice Group 1, Rule 1.)	

PROPOSED NRA TRADE PRACTICE
NO. 2.
(Trade Practice Prohibited)

To sell obsolete or misfit uniform apparel in excess of 3% of the annual sales in the preceding calendar year or more than $5,000.00 in amount in any one year at prices necessary for disposal. Sales exceeding the stated amounts must be reported to the Code Authority prior to disposal below cost.

(This rule was submitted to the Federal Trade Commission and denied on the grounds that it was contrary to the antitrust laws. As suggested, we have stricken out the words "National Association of Uniform Manufacturers" and inserted the words "Code Authority.")

PROPOSED NRA TRADE PRACTICE
NO. 3
(Trade Practice Prohibited)

To cut and make uniform apparel, excepting shirts, or blouses, from fabrics, trimmings and/or other materials furnished by or ordered on the credit guarantee of the buyer excepting on Federal Government contracts.

(This rule was submitted to the Federal Trade Commission and denied on the grounds that it was contrary to the antitrust laws.

PROPOSED NRA TRADE PRACTICE
NO. 4
(Trade Practice Prohibited)
Shipping or delivering of products which do not conform to the samples submitted or the specifications prescribed or representations made prior to securing of orders without the consent of the purchaser thereto.

COMPARABLE F.T.C. TRADE PRACTICE RULE, GROUP 1, RULE 2.

The practice of shipping or delivering products which do not conform to the samples submitted or representations made prior to securing the orders, without the consent of the purchasers to such substitutions, and with the effect of deceiving or misleading purchasers, is an unfair trade practice.

PROPOSED NRA TRADE PRACTICE
NO. 5
(Trade Practice Prohibited)

To sell uniform apparel as herein defined and/or accessories upon terms other than a maximum of thirty days net, or the allowance of a discount in excess of one per cent for cash payment within ten days from the date of

(This rule was submitted to the Federal Trade Commission and denied on the grounds that it was contrary to antitrust laws.

shipment, provided, however, that on direct sales by manufacturer to the consumer an additional period, not in excess of ninety days, may be allowed the purchaser for the payment of invoices.

PROPOSED NRA TRADE PRACTICE
No. 6.
(Trade Practice Prohibited)

To offer for sale merchandise at a price reduced from a marked-up or fictitious price, with the tendency and capacity to mislead or deceive purchasers, or prospective purchasers.

COMPARABLE F.T.C. TRADE PRACTICE RULE, GROUP 1, RULE 13.

Offering for sale merchandise at a price reduced from a marked-up or fictitious price, with the tendency and capacity to mislead or deceive purchasers or prospective purchasers, is an unfair trade practice.

PROPOSED NRA TRADE PRACTICE
No. 7.

No member of the industry shall secretly offer or make any payment or allowance of a rebate, refund, commission credit, unearned discount or excess allowance, whether in the form of money, or otherwise, nor shall a member of the industry secretly offer or extend to any customer any special privilege or service not extended to all customers of the same class for the purpose of influencing a sale.

COMPARABLE F.T.C. TRADE PRACTICE RULE, GROUP 1, RULE 3.

The secret payment or allowance of rebates, refunds, commissions, or unearned discounts, whether in the form of money or otherwise, or secretly extending to certain purchasers special services or privileges not extended to all purchasers under like terms and conditions, with the intent and with the effect of injuring a competitor and where the effect may be to substantially lessen competition or tend to create a monopoly or to unreasonably restrain trade, is an unfair trade practice.

PROPOSED NRA TRADE PRACTICE
No. 8.

No member of the industry shall brand or mark or pack any goods in any manner which is intended to or does deceive or mislead purchasers with respect to the brand, grade, quality, quantity, origin, size, substance, character, nature, finish, material content or preparation of such goods.

COMPARABLE F.T.C. TRADE PRACTICE RULE, GROUP 1, RULE 4.

The false marking or branding of products of the industry, with the effect of misleading or deceiving purchasers with respect to quantity, quality, grade or substance of the goods purchased, is an unfair trade practice.

PROPOSED NRA TRADE PRACTICE	COMPARABLE F.T.C. TRADE PRACTICE RULE, GROUP 1, RULE 5.
No. 9. (Trade Practice Prohibited) Making or causing or permitting to be made or published, any false, untrue, or deceptive statement, in the form of advertisement or otherwise, concerning the grade, quality, quantity substance, character, nature, origin, size or preparation of any product of the industry.	The making, or causing or permitting to be made or published, of any false, untrue, or deceptive statement, by way of advertisement, or otherwise, concerning the grade, quality, quantity, substance, character, nature, origin, size or preparation of any product of the industry, having the tendency and capacity to mislead or deceive purchasers or prospective purchasers, is an unfair trade practice.
PROPOSED NRA TRADE PRACTICE No. 10 (Trade Practice Prohibited) To imitate the labels, trade marks trade names, slogans, or other marks of identification or competitors.	COMPARABLE F.T.C. TRADE PRACTICE RULE, GROUP 1, RULE 7. The imitations of the trademarks trade names, slogans, or other marks of identification of competitors, having the tendency and capacity to mislead or deceive purchasers or prospective purchasers, is an unfair trade practice.
PROPOSED NRA TRADE PRACTICE No. 11. (Trade Practice Prohibited) To secure information from competitors concerning their business by false or misleading statements or representations, or by false impersonations of one in authority, and by the wrongful use thereof, to unduly hinder or stifle the fair competition of such competitors.	COMPARABLE F.T.C. TRADE PRACTICE RULE, GROUP 1, RULE 8. Securing information from competitors concerning their businesses by false or misleading statements or representations, or by false impersonations of one in authority, or the wrongful use thereof to unduly hinder or stifle the competition of such competitors, is an unfair trade practice.
PROPOSED NRA TRADE PRACTICE No. 12. No member of the industry shall give, or permit to be given, or offer to give, anything of value for the purpose of influencing or rewarding the action of any employee, agent, or representative in relation to the business of the employer of such employee, the principal of such agent or the represented party, without the knowledge of such em-	COMPARABLE F.T.C. TRADE PRACTICE RULE, GROUP 1 RULE 9. Directly or indirectly to give or permit to be given or offer to give money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitors customers or prospective customers, without the knowledge of their

ployer, principal, or party. This provision shall not be construed to prohibit free and general distribution of articles commonly used for advertising except so far as such articles are actually used for commercial bribery as hereinabove defined.

employers or principals, as an inducement to influence their employers or principals to purchase gift or offer, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors, is an unfair trade practice.

PROPOSED NRA TRADE PRACTICE
No. 13.

No member of the industry shall wilfully induce or attempt to induce the breach of existing contracts between competitors and their customers by any false and deceptive means, or to interfere with or obstruct the performance of any such contractual duties or services by any such means, for the purpose of hampering, injuring or embarrassing competitors in their business.

COMPARABLE F.T.C. TRADE PRACTICE RULE, GROUP 1, RULE 10.

Maliciously inducing or attempting to induce the breach of existing contracts between competitors and their customers by any false or deceptive means whatsoever, or interfering with or obstructing the performance of any such contractual duties or services by any such means, with the purpose and effect of unduly hampering, injuring, or embarrassing competitors in their businesses, is an unfair trade practice.

PROPOSED NRA TRADE PRACTICE
No. 14.

No member of the industry shall defame a competitor by falsely imputing to him dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations or by falsely disparaging the grade or quality of his goods.

COMPARABLE F.T.C. TRADE PRACTICE RULE, GROUP 1, RULE 11.

The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the grade of quality of their goods, with the tendency and capacity to mislead or deceive purchasers or prospective purchasers, is an unfair trade practice.

PROPOSED NRA TRADE PRACTICE
No. 15 (a)
(Trade Practice Prohibited)

To enter into an agreement with a mill to disguise by any special number any standard or special fabric known generally to the trade by a given number and to establish for the fabric identified by the disguised number a price in excess of the current established price for the fabric identified with a number by which it is generally known to the trade.

COMPARABLE F.T.C. TRADE PRACTICE RULE, GROUP 1, RULE 12.

Conspiring with a manufacturer to disguise by any special number any standard of special fabric known generally to the trade by a given number, and to establish for the fabric identified by the disguised number a price in excess of the current established price of the fabric identified by the number by which it is generally known to the

trade, for the purpose of deceiving purchasers into the belief that they are purchasing a superior fabric when such is not a fact, is an unfair trade practice.

PROPOSED NRA TRADE PRACTICE
No. 15 (b).
(Trade Practice Prohibited)
To induce a contractee or purchaser to use and apply in specifications a number to denote a style of fabric upon which bidding shall be let publicly, which number is not generally used and known to the members of this industry, to denote a known fabric, unless immediately following the date upon which the manufacturer has obtained the consent of the contractee to specify the aforesaid number and said manufacturer (1) submits in writing to the Code Authority the name of the mill manufacturing the product and full information concerning the style thereof, and (2) unless such uniform manufacturer shall, as aforesaid in writing inform the mill that it may, upon the same price and terms and deliveries, without recourse, liability, or other obligations, quote to all manufacturers bidding, the same price, terms, and/or delivery, and to furnish the said fabric to the successful bidder whomsoever he, or it may be.

COMPARABLE F.T.C. TRACE PRACTICE RULE, GROUP 1, RULE 15,

For a uniform manufacturer to induce a contractee "or purchaser" to use and apply in specifications a number to denote a style of fabric upon which bidding shall be let publicly, which number is not generally used and known to the members of the industry to denote a known fabric, with the intent and purpose of deceiving competitors as to the style, quality, and source of the fabric, and withholding other necessary information to enable competitors to intelligently bid on the contract, is an unfair trade practice.

PROPOSED NRA TRADE PRACTICE
No. 16.
(Trade Practice Prohibited)
To adopt for one's own use, by photostatic, photographic, or other means of reproduction, the plates, cuts, or other illustrations contained in catalogues, publications, measure books, folders and/or blanks originated by a competitor.

COMPARABLE F.T.C. TRACE PRACTICE RULE, GROUP 2, RULE B.

To adopt for one's own use, by photostatic, photographic, or other means of reproduction, the plates, cuts, or other illustrations contained in catalogues, publications, measure books, folders, and/or blanks originated by a competitors, is condemned by the industry.

PROPOSED NRA TRADE PRACTICE
No. 17.
(Trade Practice Prohibited)
For a manufacturer of uniform apparel, where two or more manufacturers have been asked to bid, to submit to a prospective purchaser

COMPARABLE F.T.C TRADE PRACTICE RULE, GROUP 2, RULE I.

The industry condemns the practice of a manufacturer of uniform apparel, where two or more manufacturers have been asked to

samples of uniform apparel made specially for or to the specifications of a prospective buyer, unless paid for, where the manufacturer has reason to believe or can ascertain that the total quantity of uniform apparel required by the purchaser will not exceed one hundred units; provided, however, that after the successful bidder has been ascertained, he may furnish the necessary sample garments.

bid, of submitting to a prospective purchaser samples of uniform apparel made especially for or to the specifications of a prospective buyer, unless paid for, where the manufacturer has reason to believe or can ascertain that the total quantity of uniform apparel required by the purchaser will not exceed one hundred units; provided, however, that after the successful bidder has been ascertained, he may furnish the necessary sample garments.

PROPOSED NRA TRADE PRACTICE
No. 18.
(Trade Practice Prohibited)
To charge less than cost for services rendered to a customer for pressing, cleaning, re-building, repairing, or retailoring uniforms.

This rule was submitted to the Federal Trade Commission and denied on the grounds that it was contrary to antitrust laws.

PROPOSED NRA TRADE PRACTICE
No. 19.
(Trade Practice Prohibited)
To accept uniforms of discontinued and obsolete styles or old and second-hand uniforms in part consideration for the purchase price of newly manufactured uniforms, or for merchandise credit or cash.

This rule was submitted to the Federal Trade Commission and denied on the grounds that it was contrary to antitrust laws.

PROPOSED NRA TRADE PRACTICE
No. 20.
(Trade Practice Prohibited)
As a consideration to or inducement for a sale, to service, press, renovate, or retailor, throughout the life of the uniform, unless an adequate charge is made therefor.

This rule was submitted to the Federal Trade Commission and denied on the grounds that it was contrary to antitrust laws.

PROPOSED NRA TRADE PRACTICE
No. 21
(Trade Practice Prohibited)
To alter and re-build or repair, below cost, old uniforms so that the same will be adaptable for use by persons of size other than those for whom their use was originally intended, provided, however, the new made to measure shall be altered to the customer's satisfaction without charge.

COMPARABLE F.T.C. TRADE PRACTICE RULE, GROUP 2, RULE C.

Altering, repairing, or rebuilding old uniforms so that the same will be adaptable for use by persons of size other than those for whom the said uniforms were originally intended, and selling same without disclosing that fact, is condemned by the industry.

PROPOSED NRA TRADE PRACTICE
No. 22.
(Trade Practice Prohibited)
By agreement to accept merchandise or cash credit, or for exchange, uniform apparel as herein defined and/or accessories thereto if once paid for by the buyer.

This rule was submitted to the Federal Trade Commission and denied on the grounds that it was contrary to antitrust laws.

(As agreed, we withdraw Trade Practice #22 and offer in its stead:)

No returned merchandise shall be accepted for credit except by reason of defects in materials and/or manufacture; delay in delivery; errors in shipment, or non-conformity to the specifications of the order. No allowance shall be granted save on the ground of the same exceptions.

PROPOSED NRA TRADE PRACTICE
No. 23.
(Trade Practice Prohibited)
To manufacture any of the articles defined as "uniform apparel" and to let, and /or rent the same to another.

This rule was submitted to the Federal Trade Commission and denied on the grounds that it was contrary to antitrust laws.

PROPOSED NRA TRADE PRACTICE
No. 24.
(Trade Practice Prohibited)
For any person, firm, or corporation knowingly to aid or abet another in the use of unfair trade practices.

COMPARABLE F.T.C. TRADE PRACTICE RULE, GROUP 1, RULE 14.

For any person, firm, or corporation knowingly to aid or abet another in the use of unfair trade practices is an unfair trade practice.

There was no action taken by the National Recovery Administration on these trade practices.

APPENDIX A

APPENDIX A

"METHODOLOGY"

EXPLANATION OF SCOPE OF STUDY AND SUGGESTIONS FOR FURTHER STUDY

The Men's Clothing Industry Study would scarcely be recognized if approached with the expectation of discovering a study built along the lines of the comprehensive and "idealistic" outline worked out and adopted during the "planning period." The original outline is attached hereto for what value it may have, either as an indication of first efforts on the Study or as a possible aid in suggesting unexplored aspects of the Industry. The many developments accounting for the change in the original plan and scope of the Study will be touched upon here as an explanation of the final character of the Study.

The chief circumstances limiting and moulding the character of the Study, as attempted in the Industry Studies Section of the Division of Review, were as follows:

1. Limitations in personnel and loss of time in allocation of personnel.

2. Lack of expected cooperation from advisory and service units.

3. The necessity of acting in service and advisory capacities for other groups in the Division and in being responsible for survey of N.R.A. files.

Number 3 above was of most consequence in determining the final outline and character of the Study, in that investigation and research was of necessity confined almost entirely to records and data found in N.R.A. and other Government files. It is believed that a fairly good survey of the files has been made and that the result presents a fairly good picture of the Men's Clothing Industry under the Code. True, certain secondary sources have been examined in an effort to throw light upon broad industry characteristics such as distribution, organization of production, and labor relations. Such efforts of necessity have been superficial and must be so recognized.

It is a source of regret that circumstances surrounding this Study have made impossible going into the field to gather data on certain fundamental aspects of the Men's Clothing Industry not adequately covered by present Government or other authoritative records. Obviously, it would have been worth while to visit every known source of information, such as trade associations, code authority records, trade unions, commercial and scientific organizations, experts and leading industrialists in the Industry.

A thorough study of the Men's Clothing Industry or any of the larger apparel groups would require the development and analysis of material bearing upon the "subject of study" suggested below. Many of these fundamentally important subjects were merely touched upon in the Men's Clothing Industry Study for reasons already indicated. In many instances, however, the importance of these subjects to a clear understanding of the Industry's

characteristics and problems is suggested in the Study. The development of material bearing upon these "subjects of study" would in most instances require extensive field work. Only by such field work and original investigation could be developed the original plan of study as indicated by the attached outline entitled "Study of the Men's Clothing Industry."

Selected Subjects of Study Not Adequately Covered by the Men's Clothing Industry Study

1. Inter-relations Between Suppliers of Raw Materials and the Manufacturers of Finished Apparel

Little statistical information or literature exists regarding the technique of supplying raw materials to the apparel trades. There are various methods of selling and purchasing raw materials but to understand thoroughly the relative advantage of each in terms of cost and bargaining relationships, it would be necessary to go into the field and collect data at the original sources. It would be necessary to visit various manufacturers of raw materials and middle-men of various sorts, and manufacturers who might employ the various methods of purchasing the raw materials, in order to get full and complete information about the organization of the raw materials markets. Such subjects as price, standardization, bargain power, credit terms, etc., would be kept in mind in connection with this field study.

2. Study of Manufacturing Technique

Code experience has taught that the technique employed in the manufacture of apparels is fundamentally similar throughout the various industries; however, sufficient differences exist even in one industry to make it impossible or very difficult to apply systems of control. Little information is available in the records as to these differences in manufacturing technique. For example, a study of the integrated shop system as against the contract shop system as employed in the Men's Clothing Industry would necessitate a technical examination of shops of the different types. It would be necessary to collect data in such a case on operations, occupations, and variations in productivity and cost.

3. Study of Industry Cost and Account Keeping Methods

Such a study would require visits to and consultation with accountants who specialize in apparel industry problems and an examination of systems in operation in specific plants. Likewise, there might be gathered the results of efforts on the part of various branches of individual industries to develop accounting systems and to encourage their use within these industries. Such a study would appear essential to a thorough understanding of apparel costs and would have a very definite bearing on price systems and variations in price within the industry. Likewise, this study would be invaluable in throwing light on wage differentials which exist in various areas of the industry.

4. Banker (credit) - Manufacturer Relationship

In connection with the establishment of certain trade practice rules

for certain of the apparel industries which were codified, it was often asserted that lack of credit facilities or the peculiar character of those which existed explained the development of such practices as consignment selling and cut, make, and trim systems, which were recognized as having certain undesirable features. The records are not clear as to the various credit systems which are available in the apparel industries and it would appear, because of lack of systematized information, that visits would have to be made to credit granting agencies as well as to borrowers to ascertain the character of the credit relationship and its bearing on both manufacturing and selling activity.

5. Study of Large vs. Small Scale Production

It is often asserted with respect to firms in the apparel industries as well as to firms in other industries that certain advantages are peculiar to size of the plant or establishment. It is usually stated that the small firm is at a distinct disadvantage in competing with the large firm. It would appear to be desirable to make case studies with the view of finding out whether or not certain decided advantages do go along with size--the features to be kept in mind are financial stability, labor relationships, and distribution methods, etc.

6. Labor Unions - Manufacturer Relationships

A considerable body of literature exists depicting the activities of labor unions in connection with the efforts to improve labor conditions in various of the apparel industries; however, the N.R.A. records are incomplete on recent labor activity in many of the industries and do not satisfactorily portray the very active part which labor unions played in operation under the codes. It would be necessary, to complete this picture, to visit both the head-quarters of national unions and to confer with local labor leaders and to get the benefit of such information as may be in their files. In this connection, of course, it is essential that the viewpoint of various manufacturers or groups of manufacturers in certain organized areas or areas which have been subjected to the efforts of labor organizers, be obtained.

7. Trade Association - Manufacturer Relationships

Trade associations have, for a long while, played an important part in organized control of industry. During the N.R.A. days the influence of trade associations increased substantially and association efforts played a great part in both the formulation of Codes and the control of industry under Codes. In many instances the associations have not been recognized as Federal agencies and hence the N.R.A. files are incomplete in reflecting trade association activity. A thorough study of trade association activity can be gained only by visits to the national trade associations and especially to the local or regional trade associations which represent group and area interests often neglected and sub-ordinated to the greater influence of national groups. To get a clear impression of the workings of the local association it would appear necessary to visit areas concerned and not to rely upon second-hand information obtained from a national headquarters group.

8. Labor - Area Differentials

The groups responsible for the formation of apparel industry Codes almost invariably insisted that wage area differentials should be established. It was usually argued that such differentials were justified upon such general considerations as cost of living and labor efficiency. Rarely have careful studies been made to determine whether or not these differentials were justified in fact, and if justified, what area lines should be drawn in recognition of such facts. It would appear that field studies would be necessary to ascertain whether or not there are area differentials which justified codal differentials and whether or not such differentials should be strived for in further efforts to obtain either voluntary codal agreements or future use under a possible new N.R.A. A study and examination of facts obtained at the source, within the area in question, should be considered in the drawing of definite conclusions. It is recognized that the problem of area differentials is not peculiar to the apparel industries and no reason is seen why data bearing upon this problem could not be secured by some special group in the interests of all industries concerned.

9. Distribution of Finished Product

Industry records are deficient in carefully organized material bearing on the distribution of apparels. It is recognized that various methods of distribution are employed, but careful studies of each from the standpoint of cost, service standards, consumer relationships, etc., have not been made. It would appear that a study should be made of this problem especially as it has a direct bearing on the interstate character of the business in question. The sources here which would need to be visited seem to be retail and wholesale organizations, individual retail and wholesale establishments, and members of industry who employ one method or another of distributing goods, whether it be through wholesalers, retailers, direct-to-consumer, or retail outlet. It is known that apparel code authorities did not gather material on this aspect of industry and to acquire sufficient data to understand thoroughly the processes involved would necessitate visiting the sources above referred to.

Conclusion

The above list of suggested industry problems for study is not intended to be all-inclusive but merely suggestive of some of the major problem which fell within our study plans. It should be readily seen, however, that a great amount of field work would be required to develop and understand the various remifications of the apparel industries business. Indsutry statistics and literature is sadly deficient, especially in connection with the various relationships between suppliers of raw materials and manufacturers on the one side and the relationships between the manufacturers and the distributors or the consumers on the other side. The gathering of material of a character which would allow the development of the tentative outline such as prepared for the study of the Men's Clothing Industry would require the efforts of many competent observers, over a considerable period of time, who are familiar with the problems of the industry being studied.

ORIGINAL OUTLINE FOR

STUDY OF THE MEN'S CLOTHING INDUSTRY

(Emphasis on Men's Factory-Made Dress Clothing)

I. Development and Scope of the Various Divisions of the Industry Selected for Study.

A. Definition of industries and codes covered by the Study.

1. Reasons for limiting study to certain branches of the Clothing Industry.
2. Description of the industry branches by products.
3. Code definitions by products and processes.
4. Explanation of codal jurisdictions and indication of conflict or overlap as related to manufacturing processes, distribution, and consumption.

B. Brief historical sketch of industry's beginning and development to the present, touching upon:

1. Types of products manufactured.
2. Types of raw materials and equipment used.
3. Processes.
4. Customs and styles.
5. Distribution problems.
6. Nature of competition.
7. Character and type of labor employed.
8. Labor relations with employers.
9. Trade association growth.
10. Government influence and control.

C. Present scope of industry.

1. Number of individual establishments and capital investment by:

(a) individual proprietorship, partnership, corporation, cooperative.
(b) products.
(c) inside shops and contract shops.
(d) market and geographical areas.
(e) size of firms.
(f) profits, losses, embarrassments.

2. Employees by:

(a) market and geographical area.
(b) age and sex.
(c) total wages and wage rates.

3. Value and volume of products by:

(a) type.

(b) inside and contract shops.
(c) geographical and market areas (production).
(d) distribution by states.

II. Raw Materials and Equipment.

A. Sources, kinds, and value of raw material and equipment.

1. Kinds of raw material and equipment used in branches of the industry by:

(a) types.
(b) value in relation to total cost of product.
(c) value in relation to value of total supply of raw materials.
(d) technical improvements--related to employee productivity and employment.

2. Origin of raw materials and equipment by geographical areas.

(a) origin of raw material and equipment in relation to location of clothing manufacturers.
(b) foreign competition.
(c) seasonability--effect on production schedules and prices.

B. Raw material and equipment market organization and price.

1. Types of manufacturers and distributors of materials and equipment.

(a) manufacturers and processors.
(b) distributors and various kinds of middlemen.

2. Methods of sale and purchase of raw materials and equipment.

(a) variations in methods of purchase and sale (related to various types of sellers and buyers).

1. terms of sale.

a. discounts and rebates.
b. guarantees: quality and service.
c. allowances.
d. related to terms granted by clothing manufacturers.

2. credit problems.

a. proportion of credit sales to cash sales.
b. credit standing and needs of purchasers.
c. bargaining relations between purchaser and seller.

d. credit conditions requiring unusual facilities or terms.

3. competition.

a. price of raw materials and equipment.

(1) related to prices of clothing.
(2) evidence of lack of free competition.
(3) price fluctuations and cost changes (example--effect of increased wages under N.R.A. on price).
(4) influence on raw material prices of association and governmental action.

III. Organization of production.

A. Description of manufacturing processes: growth and development to present.

1. Plant layout and technique.

(a) section work.
(b) unit system.
(c) difference between inside and contract shop.
(d) area or market differences.
(e) types of machines and equipment.
(f) systems of production control.

2. Comparison of varying processes and methods of manufacture as to effects upon the following:

(a) productivity.
(b) working conditions.
(c) methods of wage payments.
(d) costs and cost keeping methods.
(e) quality of product.
(f) labor-management relations.
(g) capital and credit requirements and terms.
(h) prices and pricing systems.
(i) responsibility for and method of controlling the organization of production.
(j) location of manufacturing establishment.
(k) adaptation to style and seasonality.
(l) standardization of product--raw material and finished product.

3. Cooperative control of manufacturing methods and processes--development and present status.

(a) labor union--

1. collective agreements relating to processes and methods of production.

a. adaptation to area and market variations in methods of production.
b. effect on methods of production and working conditions in organized and unorganized plants.

(b) trade associations.

1. local and national agreements relative to manufacturing processes and methods.
2. effects of association activity upon methods of production.

(c) governmental.

1. local and state governments.

a. history tracing cause of intervention and legal basis of intervention.
b. nature and extent of control.
c. effects of local and state action--state vs. interstate problems.

2. federal.

a. N.R.A. activity relating to control of production processes.

(1) reasons for intervention.
(2) experience and effects on industry under codes.
(3) problems of production in need of federal control.

4. Large vs. small scale production.

(a) financial stability.
(b) labor relationships.
(c) distribution methods.
(d) methods of production.

IV. Finances.

A. Historical--general survey.

1. Capital investment.

(a) origin, growth, present.

2. Fortunes of the industry.

(a) profits, losses, and embarrassments.
(b) dividends.
(c) taxes.

3. Financial development and fortunes of the industry contrasted with:

(a) other major industries.
(b) foreign textile industries.

B. Financial structure.

1. Development and organization.

(a) origin or capital.

1. geographical.
2. new capital vs. plowed-in profits.

(b) development and extent of various forms of capital structure.

1. individual proprietorship.
2. partnership.
3. corporation (and pyramided structures)

(c) factors influencing capital development and financial structure.

1. entrepreneurs within the industry.
2. investment banker.
3. wholesaler--retailer--jobber.
4. cooperatives.
5. enterprises in allied industries.
6. governmental agencies and regulations.

(d) control

1. financial control--in whom vested?
2. financial control--relationship to management control.

2. Fixed capital.

(a) interest rate.

1. geographical variations.
2. variations by type of enterprise.
3. risk variations.
4. obsolescence and depreciation.

(b) cost and extent of financing and refinancing.

3. Working capital and commercial credit.

(a) ratio working capital to fixed capital.

(b) ratio credit to fixed and working capital.

(c) agencies granting credit or advancing working capital--types and methods.

1. commercial banks.
2. wholesaler--retailer--jobber.
3. enterprises in allied industries.
4. selling agents.
5. government agencies.

(d) cost of various types of credit and borrowed working capital.

(e) relationship of various types of credit to managerial policies.

(f) geographical variations in credit availability, methods and rates.

(g) discount and credit terms granted customers--relationship to borrowed working capital and credit granted industry.

1. types of discount and credit granted customers.
2. relationship of types of credit granted industry to types of credit granted by industry.

V. Labor.

A. Comparative distribution of employees by years and monthly by:

1. Markets, geographical, and political areas.
2. Age and sex.
3. Occupations and wage rates.
4. Seasons.
5. Size of plant.

B. Hours of employment.

1. Distribution by market, geographical and political areas.
2. Distribution by occupations.
3. Distribution by size of plant.
4. Distribution by methods of production.
5. Comparison with other and allied industries.
6. Home workers.
7. Effect on re-employment.

C. Wages.

1. Industry totals for years and months.

2. Real wages.

3. Wage rates--distribution by

(a) type of shop of plant--inside and contract.
(b) size of shops.
(c) market and geographical areas.
(d) union shops and non-union shops.
(e) occupations by individual establishments.
(f) related to man-hour productivity.
(g) relation to unemployment.
(h) comparison with other industries.

4. Methods of wage payments.

(a) variations by:

1. manufacturing methods or processes.
2. market and area customs.
3. effect on productivity and wage outlays.

5. Compared with allied and other industries.

6. Methods of handling learner and handicapped workers problem.

D. General labor conditions.

1. Standards of safety and health.

(a) in large plants and small plants.
(b) methods of production.
(c) by market areas and geographical regions.
(d) union and non-union employees

2. Vacations and holidays, recreation.

3. Sick benefits, insurance, pensions.

(a) management.
(b) association and union.

4. Technological changes related to labor standards and conditions.

5. Adjustment to shifts in location of industry.

6. Training.

E. Collective activity.

1. Nature and extent of labor unions.

   (a) type of union.
   (b) size of union.
   (c) membership by market areas and type of manufacturing establishment.
   (d) membership by occupations.
   (e) membership by concerns and establishments.

2. Union activity--wages and working conditions.

   (a) collective agreements.

      1. number and character of agreements with individual members of industry.
      2. number and character of agreements with employer groups.

   (b) methods of bargaining.

   (c) organizing methods.

   (d) union wages compared with non-union wages.

   (e) working conditions in union shops compared with conditions in non-union shops.

   (f) union welfare plans.

3. Union participation in governmental control.

   (a) local and state.
   (b) federal

VI. Distribution and Consumption.

A. Markets and marketing organization.

1. Distribution channels--description of

   (a) wholesalers and jobbers.
   (b) retailers.
   (c) buying officer.
   (d) direct to consumer.
   (e) retail outlet.
   (f) exporters and importers.

2. Comparison of methods of distribution, explanation of development and use in terms of:

   (a) costs in relation to price to consumer.
   (b) margin of profits--manufacturer and distributor.
   (c) product of standards (consumer).
   (d) methods of obtaining business from

1. manufacturer.

   a. discounts, terms, concessions.
   b. bargaining advantages due to nature of market mechanism.

2. ultimate consumer.

   a. advertising and soliciting, trade marks and trade names.

3. The "distribution area" as evidenced by:

   (a) advertising.
   (b) transportation statistics: shipments and agencies.
   (c) production areas compared with consumer distribution.
   (d) location of offices, stores, warehouses engaged in distribution.

B. General aspects of consumption.

1. Variations in consumer demand.

   (a) dollar competition with other products.
   (b) influence through style.
   (c) potential capacity to consume.
   (d) unexploited markets.
   (e) influence on quality standards

Influence of Work Clothing on Men's Clothing

A. Pants Conflict.

1. Describe evolution of work-pants from overall to semi-dress pants--causes therefor.

   a. Changes in material.

   b. Changes in buying habits caused by style in men's clothing industry.

      (1) 2-pants suit.
      (2) odd coat and slacks.

2. Describe relationship of pants to manufacture of work clothing.

   a. Proportion made in same plant as other work clothing.

   b. Proportion made in separate plants.

   c. Proportion made separately by men's clothing manufacturers.

(1) trade volume of separate pants sold by men's clothing manufacturers.

3. Describe differences in methods of manufacture between work-clothing and men's clothing, with particular reference to

   a. Location of plants.
   b. Unionization.
   c. Manufacturing costs.
   d. Marketing and distributing policies.

4. Describe influence of government contracts on situation.

   a. Types of bidders--differentiating between men's clothing and work-clothing manufacturers.

B. Mackinaws and melton jackets and their influence on overcoats.

1. Show importance of mackinaw production as related to other articles of work clothing with particular reference to amount manufactured in shops making other items of work-clothing or leather garments.

2. Show amount of mackinaws manufactured by men's clothing manufacturers making other articles of men's clothing.

3. Describe differences in costs in the manufacture of mackinaws in men's clothing factories and in work-clothing factories.

4. Trace effect of sales of mackinaws on sales of lower priced overcoats by compiling statistics on

   a. Production of cheap overcoats over a period of years.
   b. Production of mackinaws over a period of years.

5. Describe influence of government contracts on situation.

   a. Types of bidders--differentiating between men's clothing and work-clothing manufacturers.

6. Describe the union situation in the mackinaws industry.

   a. In non-union work-clothing plants.
   b. In union work-clothing plants and leather garment plants.

c. In men's clothing factories.

7. Show comparative costs for a, b, and c of 6.

C. Wash Suits.

1. Extent, number, and costs of wash suits manufactured by work-clothing manufacturers.

2. Wash suits as an item of men's clothing manufactured by men's clothing manufacturers.

3. Compare the sales trend of the two groups above as to volume, production, terms, and outlets.

APPENDIX B

DIVISION ADMINISTRATORS

A. D. Whiteside, from June, 1933, to April, 1934
Sol A. Rosenblatt, from April, 1934, to October, 1934.
Prentiss L. Coonley, from October, 1934, to April, 1935.
M. D. Vincent, from April, 1935, to May, 1935

DEPUTY ADMINISTRATORS

Lindsay Rogers, from June,1933, to December, 1933
B. H. Gitchell, from December,1933, to March, 1934.
Earl Dean Howard, from March, 1934, to June, 1934.
Dean G. Edwards, from June, 1934, to September, 1934
M. D. Vincent, from September, 1934, to April, 1935
Burton E. Oppenheim, from April. 1935, to May, 1934

ASSISTANT DEPUTY ADMINISTRATORS

Handled by Deputy Administrator until Janugry, 1934
John R. Beecroft, from January, 1934, to September, 1934.
S. H. Ourbacker, from September, 1934, to January, 1935.
Walter E. Woodford, Jr., from January,1935, to May,1935.

AIDES

S. H. Ourbacker, from June, 1934, to September, 1934
Robert L. Brandt, from August, 1934, to May,1935.
Walter A. Simon, from August, 1934, to October, 1934.

APPENDIX C.

Production of Men's Clothing Under the Cotton Garment Code--The Overlap Problem

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APPENDIX C

THE MEN'S CLOTHING INDUSTRY PRODUCTION OF MEN'S CLOTHING UNDER THE COTTON GARMENT CODE--THE OVERLAP PROBLEM..

CHAPTER I.

ORIGIN OF THE CONTROVERSY

Only within recent years has the competition in the manufacture and distribution of men's and boys' single pants, summer wash suits, mackinaws, melton jackets, etc., become actually acute and serious between the Men's Clothing Industry and the Cotton Garment Industry. Previous to the present pronounced fashion trend toward the wearing of odd trousers of both wool and cotton, cotton garment plants confined their production mostly to overalls, work pants, and wash suits for use as work clothes only, and clothing plants produced the great bulk of separate trousers of wool or part wool materials.

During the past five or six years, this situation has changed entirely, and competition between these groups, aggravated greatly in 1933 and 1934 by the more advantageous wage and hour provisions of the Cotton Garment Code, has become very severe, primarily due to:

I. Development in Style, Appearance, Durability of Cotton and Cotton Mixture Fabrics.

Development in appearance, design, style, and durability of cotton and cotton mixture fabrics, to compete with and substitute for the more expensive woolen and worsted fabrics. This fabric improvement has been so marked that cotton trousers "are now desired by the millionaire golfer as well as by the working man." (*)

II. Decreased Purchasing Power of Consumers.

Inability, due to the depression, of many consumers to pay former prices for woolen trousers, greatly increasing the market for cheaper cotton or cotton and wool trousers.

III. Decreased Demand for Overalls.

Most work clothing plants originally produced overalls and some work pants. Then, because of the tremendous decrease in the demand for overalls (**) they began to make more work pants, separate pants, slacks, mackinaws, melton jackets, play suits, etc. These lines of merchandise could be made without changing their plant equipment, personnel, or organization, and enabled them to maintain greater continuity of employment.

(*) Transcript of Hearing on Men's Clothing, Cotton Garment and Dress Manufacturing Industries, June 20, 1934, Volume 3, Page 640.

(**) Transcript of Hearing on Men's Clothing, Cotton Garment and Dress Manufacturing Industries, June 18, 1934, Volume 1, Page 80 and 81.

They were also sold largely through the same channels of distribution. Through this development, what were former work pants, by sales-promotion and improvements in fabric, style, and design, became extensively used for sport and dress purposes. And because of the change in fashion and the downward trend in prices, men's wash suits, made in work clothing factories, which were mostly of the seersucker type, began to compete with pants and summer wash clothing produced by the Men's Clothing Industry.

IV. Necessity for Lower Selling Prices to Consumers.

Lower selling price range for separate trousers forced many clothing manufacturers to the production of the cheaper cotton and cotton mixture articles.

V. Widespread Establishment of Plants in Rural Communities to Permit Payment of Lower Wage Rates.

Formerly most single pants were made in the centralized clothing centers in the large cities. With the entrance into this field of the overall and work clothing plants, the industries spread over the entire country, under wage rates considerably below the union scales. It therefore became necessary for the manufacturer in New York, Chicago, and other clothing centers, to find new places where they could produce these garments at a lower cost. Forty or fifty such shops, with a production capacity of from 120,000 to 150,000 pairs per week, were established in Pennsylvania and other outlying districts close to New York, in some of which, prior to the Codes, employees worked sixty-five hours per week, at very low weekly wages. (*)

VI. Style Trend Towards Separate Coats and Trousers.

The style of wearing separate coats and trousers has rapidly increased, especially amoung young men of school and college ages. Hence, the separate pants have become very important items of the clothing Industry.

VII. Increased Interest in Sports, Particularly Golf.

The construction of one or more golf courses in about every town in the country, the vast number of people now playing this game, and the universal interest in recreation and sports of all kinds, have greatly increased the demand for separate trousers for sports use.

VIII. Style Consciousness of Men in Rural Communities.

Greater style consciousness of men in the smaller outlying rural communities has increased their demand for better and fancier clothing, even the present style trend of separate coats and trousers.

(*) Transcript of Hearing on the Cotton Garment Industry, November 28, 1933, Page 83.

IX. Wage and Hour Advantages under Cotton Garment Code.

After the approval of the two Codes, Men's Clothing--August 26, 1933, and Cotton Garment--November 17, 1933, the competitive situation became much more critical, as in the strongly-unionized Men's Clothing Industry, the wages were higher, the hours permitted were shorter, and there were higher classified wage rates for cutters and off-pressers, against a minimum wage only in the Cotton Garment Industry. This set-up, of course, afforded those plants operating under the Cotton Garment Industry Code on the same garments a very marked cost of production advantage.

X. Price Levels Undermined by Prison Labor Production.

One of the main contributing factors to this competitive controversy was the production of work pants and single pants by prison labor. Pants manufacturers operating under the Cotton Garment Code, at all hearings and conferences on the overlapping problems, objected most emphatically to any proposed raise in the minimum wage rates, or the introduction of any classified wage scales, claiming that any further advance in the selling prices of their garments would be most detrimental and eventually force them to close their plants. Low selling-prices, they argued, were absolutely essential on their products, due primarily to the competition they were receiving from the prison-made pants, overalls, work shirts, etc.

Previous to the Codes this prison labor situation was very serious and had a marked effect on the general price structure of the Cotton Garment Industry. As many as forty states at one time or another produced cotton garments in prisons for the open market. Control over this production was virtually impossible, and numerous unscrupulous manufacturers. operating prison shops and exploiting the prison labor, were often able to undersell and demoralize completely the entire market.

The Cotton Garment Code expressly prohibited any of the industry members from employing prison labor, and this provision practically eliminated this under-selling evil in the industry, so that the complaints of these cotton garment manufacturers that they could not increase their prices due to prison competition were, in most cases, not based on the actual conditions and facts. A Compact of Fair Competition for the Prison Industries of the United States was also approved by the President on April 19, 1934.

A. Statistics on Prison Labor Production

The following excerpts from a study made in May, 1935, by Dr. Alfred Cahen, Ph. D., Cotton Garment Code Authority statistician, and the statistical summary of a questionnaire set out by the Code Authority in April, 1935, give a brief picture of this Prison Labor problem.

"Prison employment on cotton garments increased from 6,000 in 1885 to 16,000 in 1932. Of these 16,000, 2,000 were working on garments for state use, 2,000 for open market sales by the states, and

12,000 for private contractors.

"In 1885---3% of prison laborers worked on cotton garments.

"In 1932--19% of prison laborers worked on cotton garments. (a greater percent than any other industry).

"In 1932--7,000 prisoners produced work shirts.
--4,000 prisoners produced work pants.

"In 1934--1,000 prisoners produced work shirts.
--1,600 prisoners produced work pants.

"The reason for this sharp decline was that five large companies from 1933 to 1934 ceased contracting their work to prison labor, and recorded an increase of 3,000 free employees in eight new factories.

"At one time or another, 40 states produced cotton garments in prisons for the open market. The long fight for free labor has reduced this to 9 states now." *

"Fifty-two producers of work pants report they are affected by prison competition.

"From label sales of the Prison Labor Authority, Deputy Administrator Collins estimated that 1934 prison production was slightly under 2,250,000 work pants and overalls, and that approximately 3,100 prisoners were working on all types of cotton garments.

"Reported prices per dozen of prison-made garments are as low as $6.00 for work pants.

"Median prices per dozen on work pants---Free factories, $13.56; Prison factories, $7.50.

"Questionnaire replies report cotton garment prison production in 17 states; that 43 old distributors and 20 new ones are carrying prison goods in their localities, and 11 manufacturers, 16 retailers, and 25 wholesalers are distributing prison goods.

"Report sale of prison products in 28 states, including 9 states where such sales are prohibited legally." **

(*) "Trends in Cotton Garment Prison Labor 1885 to 1934" By Dr. Alfred Cahen, May 17, 1935. (Research and Planning Division Library.)

(**) Statistical Summary of Prison Labor Questionnaire sent out April 3, 1935; dated April 25, 1935; by Dr. Alfred Cahen. (Research and Planning Division Library.)

D. Statement of Judge Adkins.

The following statement of Judge Jesse C. Adkins, of the Supreme Court of the District of Columbia, in his decision rendered January 22, 1935, in the case of Alabama Textile Products Co., et al., vs. Homer S. Cummings, the Attorney General, et al., also shows the improvement in this prison situation.

> "b. The weight of the evidence shows that the competition with prison-made goods has decidedly decreased. In 1932, 13,948 prisoners were employed in manufacturing cotton garments; in November, 1934, this number was reduced to 3,098.
>
> "Work shirts and work pants are the principal if not the only cotton garments made in prisons,
>
> "In 1932, 22,000,000 work shirts and 9,000,000 work pants were so made.
>
> "Blue Eagle labels were first used on cotton garments about May 1, 1934. Between that date and December 1 about 600,000 labels were issued for shirts made in prisons and about 43,000,000 labels were issued for shirts made elsewhere.
>
> "During the same period about 1,100,000 labels were issued for work pants made in prisons and nearly 30,000,000 such labels were issued for work pants made by the rest of the industry.
>
> "c. The prison competition otherwise is less severe than it was before the adoption of the prison compact."

CHAPTER II

THE CODES AS ORIGINALLY APPROVED

I. MEN'S CLOTHING CODE.

During the many days and weeks of negotiations, conferences, and hearings prior to the approval of this Code, the main issues at stake were the widely-different points of view of the two associations of the Industry, the Clothing Manufacturers Association of the United States of America, and the Industrial Recovery Association of Clothing Manufacturers, especially in respect to wages above the minimum and the administrative machinery to be set up for operating the Code. In the determined but mostly unsuccessful effort to settle these differences and submit for final approval a Code satisfactory to both factions, sufficient consideration was not given to definitions of the products of the Industry, especially in relation to future jurisdictional conflicts with other industries which might produce articles of a similar or closely-related nature.

A. Proposed Definitions.

Article I of the Code proposed by the Clothing Manufacturers Association of the United States of America read:

> "Definitions: The term 'Clothing Industry' as used herein is defined to mean the manufacture of men's and boys' and children's clothing, summer clothing, uniforms, single knee pants, single pants, men's and boys' leather coats and raincoats."(*)

B. Objections by Wash Suit Manufacturers

Mr. Elmer Ward, of the Goodall Company, manufacturers of "Palm Beach Suits" asked that special consideration and provisions be made for this branch of the Industry producing summer clothing.

"The suit manufactured by this subdivision is a highly seasonal product-- it does not require tailoring or any special ability to make it up-- the skill required is not comparable to the higher degree required in the manufacture of woolen suits. The bulk of the work is now done in the South, where the worker is generally of slower temperament, .. is not keyed up to systematic production of the North and produces on the average few units per individual.-- The purpose and intent of the National Recovery Act will best be effectuated if a minimum wage of thirteen dollars per week for the Northern A ea and twelve dollars for the Southern Area be applied

(*) Transcript of Hearing on Men's Clothing Industry, July 26, 1933, Volume, 1 Pages 19-20

to this subdivision.-- At least fifty per cent of the employees are now working for less than the proposed minimum, and this would be a fifty per cent advance over the present wage scale.
--The maximum hours per week should be more equitably applied to this subdivision, and some additional working time allowed during the peak season.--The manufactured garment has always brought a low price in the consumer's market and any higher scale of wages other than that proposed would raise costs all out of proportion to the possible sale price, and probably result in the elimination of this industry and those employed therein."(*)

Mr. Leon Godchaux, of New Orleans, La., representing the Men's Wash Suit Manufacturers National Association, a group of New Orleans firms, exclusive wash suit manufacturers, the largest single group in this Industry, asked for a separate Code for these manufacturers.

"We urge, first, that within the intent and meaning of the National Industrial Recovery Act, not being within the same competitive group, we do not belong and should not be placed under the same Code as that governing the manufacturers of woolen garments. Second, being a separate and distinct industry we are, primarily, entitled to promulgate our own Code. Third, because of the methods adopted by us in the manufacture of wash suits, and because of the materials used and labor employed therin finding ourselves closely allied to the various groups comprised within the I.A.G. M. and because of our sincere desire to cooperate with the Administrator, we have voluntarily place ourselves under the Code of the I.A.G.M. --We therefore respectfully urge that our position be maintained and that we be permitted to refrain from associating ourselves with the manufacturers of woolen clothing." (**)

C. Approval Difinitions.

No question was raised by any of the single pants manufacturers as to the possible inadequacy of the definition of "pants" or as to the probability of later overlapping trouble with other garment codes. As a result of the statements of Messrs. Ward and Godchaux at the Code hearings, and later arguments and testimony (documentary evidence of which is not available) at the post-hearing conferences, the definition section was slightly changed, and as finally approved on August 26. 1933, read as follows:

"I. Definitions. -- Ther term 'Clothing Industry' as used herein is defined to mean the manufacture of men's boys' and children's clothing, uniforms, single knee pants, single pants, and men's summer clothing (exclusive of cotton wash suits)."

(*) Transcript of Hearing on Men's Clothing Industry, July 27, 1933, Volume 2, Pages 87-91.

(**) Transcript of Hearing on Men's Clothing Industry, July 27, 1933, Volume 2, Pages 334-343.

D. Approved Wage Provisions.

The following minimum and classified wages were established:

"II.-----Minimum wages to manufacturing employees shall be at the rate of 40¢ per hour in the North, and 37½ per hour in the South-----.

"The minimum wage paid by employers to employees working on single knee pants shall be at the rate of 37½ per hour.

(a) On and after the effective date, the minimum wage which shall be paid to cutters shall be at the rate of $1.00 per hour, and the minimum wage which shall be paid to off-pressers shall be at the rate of 75 cents per hour.

(b) The existing amounts by which wages in the higher-paid classes, up to classes of employees receiving $30.00 per week, exceed wages in the lowest paid substantial classes shall be maintained."

E. Approved Hour Provisions.

The following maximum hours were established:

"On and after the effective date, the hours of employment for employees in the Clothing Industry, except repair shop crews, engineers, electricians, firemen, office and supervisory staff, stock clerks, shipping clerks, truck drivers, porters and watchmen, and except employees engaged in bona fide managerial or executive capacities shall not exceed thirty-six (36) hours per week nor eight (8) hours per day. Employers shall not operate productive machinery in the Clothing Industry more than one shift of thirty-six (36) hours per week.....

"Repair shop crews, engineers, electricians, firemen, office and supervisory staff, stock clerks, shipping clerks, truck drivers, porters, and watchmen shall not work in excess of an average of forty (40) hours per week during any year beginning with the effective date."

II. THE COTTON GARMENT CODE

A. Public Hearings - Delay in Approval.

Public hearings on this Code were held on August 2 and 3, 1933, but the Code was not actually approved until November 17, 1933. This was in reality a trade association code rather than an industry code, and was based not on the product but on the type of material used in the product and was inevitably due to conflict in many cases with the product classifications of other needle trade industry codes, especially as the hours proposed were relatively high and the wages proposed were relatively low. The long delay before final approval was chiefly because of the many diversified types of garments to be included, and the early realization that many cases of overlapping and unfair competition with other codes were bound to arise. Single pants and men's cotton wash suits were two of those most important problems.

B. Early Protests on Overlap Problem.

Immediately after the effective date of the Men's Clothing Code, September 11,1933, a number of complaints were filed by manufacturers operating under that Code that other manufacturers making precisely similar garments claimed that they were chiefly of cotton content, and therefore could be produced under the more favorable hour and wage provisions of the proposed Cotton Garment Code. Also, a number of pants manufacturers withdrew from the Industrial Recovery Association of Clothing Manufacturers and affiliated themselves with the International Association of Garment Manufacturers, the sponsoring organization for the Cotton Garment Code.

C. Deputy Administrator Gitchell's Statement on Actions Proposed and Actually Taken.

A number of conferences and hearings on these problems were held, including a Public Hearing on September 26, 1933, Deputy Administrator B. H. Gitchell's statement at the opening of the Public Hearing held November 27, 1933, gives a very good summary of the various steps proposed or actually taken by the Administration and the Code Authorities on this particular jurisdictional problem subsequent to the approval of the Men's Clothing Code on August 26, 1933.

"There is something of a history of this; after the Men's Clothing Code went into effect the hearing was arranged and held, I believe, on the original application of a group of manufacturers in New Orleans, which was later supported by a number of other people, and a hearing on the subject was held on September 26th, 1933.

"As a result of that hearing, I believe an agreement was made between various factors of the industry for the inclusion of Men's Wash Suits of the chief content of cotton, under the Clothing Code, and it was intended that an executive order should be issued making the necessary amendments to the Men's Clothing Code to cover that agreement.

"For the purposes of the record, and to give the history of the matter before you, I am going to read the report prepared by Dr. Rogers, and also the rough draft of the proposed Executive Order.

"Dr. Rogers says in this memorandum:

"'As pointed out in my report recommending approval of the Code for the Men's Clothing Industry, difficulties are inevitable in respect of definitions as to what a code for an industry could cover. As an example, I cited summer clothing for men and stated that "the bulk of the production of men's wash suits is by firms who are primarily cotton garment manufacturers. The class of labor and methods of production are entirely different from the class of labor and methods of production of woolen men's clothing." The question of what

should be done was debated at length and this arrangement was agreed to: The manufacturer of Cotton wash suits should be put under the Cotton Garment Code which was then and still is pending. All other wash clothing should come under the Men's Clothing Code. This definition was that agreed to by representatives of the Men's Wash Suit Manufacturers National Association (largely a group of New Orleans manufacturers) and representatives of the Clothing Manufacturers Association of the United States of America (one of the proposing associations of the Men's Clothing Code.)

"'The Men's Clothing Code went into effect on September 11, 1933, and difficulties were immediately apparent. The New Orleans manufacturers had considerable production of linen suits which were cut and made at the same time and by the same workers as cotton wash suits. Manifestly it would impose an unnecessary hardship on such manufacturers to arrange for different wages and hours for employees when engaged in the manufacture of summer was clothing of different fabrics. The New Orleans manufacturers protested and asked for relief. Coincidentally, manufacturers, the bulk of whose production is in woolen clothing, protested that in respect of their wash clothing they did not have the advantage of longer hours and lower wages as the New Orleans manufacturers would have (they come as was intended under the Cotton Garment Code.)

"A hearing was therefore had on September 26, 1933, and the matter was gone into fully. Excellent spirit was shown at the hearings and no interested party had any disposition to challenge the two premises which the Deputy Administrator suggested as determining the settlement:

"1. That manufacturers who were voluntarily under the Men's Clothing Code and willing to stay there with shorter hours and higher minimum wages should not be taken out from under that code in respect to their manufacture of wash clothing; and

"2. That if they stayed under the Men's Clothing Code they should not be subject to unfair competition from other manufacturers who were under a code more favorable in its hours and minimum wage provisions.

"In conferences subsequent to the public hearing, agreements were entered into by which the members of the Men's Wash Suit Manufacturers National Association will come under the Men's Clothing Code but with recognition of the fact that this branch of the Men's Clothing Industry is more seasonal and is entitled to overtime at the peak periods of the year; and with recognition also of the fact that minimum wages guaranteed to workers of a somewhat different type from those working primarily on woolen clothing cannot be as high as the wages originally inserted in the Men's Clothing Code.

"'I therefore recommend that the Men's Clothing Code as ap-

proved by the President on August 26, 1933, be amended in order to carry out this agreement. When the Executive Order is issued, all manufacturers of men's summer clothing will be under the same code subject to wage and hour provisions to which they all agree, whether they are located in New Orleans or in the rest of the southern section and are exclusively manufacturers of wash clothing or whether they are in the northern section of the country and only manufacture wash clothing during certain periods of the year.'

"The memorandum of Executive Order which Dr. Rogers has drawn up for the Executive Order is as follows:

"'An application having been made by the Men's Clothing Code Authority and the Men's Wash Suit Manufacturers' National Association, pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for modification and amendment of the Code of Fair Competition for the Men's Clothing Industry, as heretofore approved by me on August 26, 1933, and for the modification of my approval of said Code of Fair Competition accordingly, and the Administrator having recommended the granting of such approval, such proposed modifications and amendments to be in accordance with the following proposals:

"'(a) That in the definition of the term clothing industry in Article I of the said Code, there be deleted the words "exclusive of cotton wash suits" after the term "men's summer clothing" so that the complete definition shall read:

"'"The term 'clothing industry' as used therein is defined to mean the manufacture of men's, boys', and children's clothing, uniforms, single knee pants, single pants, and men's summer clothing."

"'(b) That there be added to Article II of the Code, a new paragraph to be known as paragraph (g) as follows:

"'"(1) In the State of Louisiana the minimum wage paid by employers to employees working on wash suits of 100 per cent cotton content shall be at the rate of 35 cents (35¢); the minimum wage which shall be paid to cutters of wash suits of 100 per cent cotton content shall be at the rate of 85 cents (85¢) per hour, and the minimum wage which shall be paid to off-pressers of wash suits of 100 per cent cotton content shall be at the rate of 60 cents (60¢) per hour.

"'"(2) In the 'southern section' as previously defined, (except Louisiana) the minimum wage which shall be paid to cutters of Palm Beaches, linos, and similar wash fabrics shall be at the rate of 90 cents (90¢) per hour; the minimum

wage which shall be paid to off-pressers of Palm Beaches, linens and similar wash fabrics shall be at the rate of sixty-five (65¢) cents per hour."

"'(c) That in the last paragraph of Article IV of the Code there be inserted after the word "trade" the following: "Makers of summer goods", so that the complete paragraph shall read as follows:

"'"Tailoring to the trade, makers of summer goods and manufacturers of uniforms shall be permitted overtime at regular rates during peak seasons, the number of hours and number of weeks to be determined by the Men's Clothing Code Authority."'

"I would like to say that for the purpose of this hearing there is associated with the Deputy Administrator in charge, Mr. W. D. Himes, of the Industrial Conference Board, on my extreme left; Mr. M. S. Massel, of the Consumers' Advisory Board, and Mr. Sidney Hillman, of the Labor Advisory Board. Dr. Earl D. Howard, Deputy Administrator, is associated with me in the consideration of this matter.

"Dr. Rogers withheld the issuance of that Executive Order until the cotton Garment Code was approved by the President, so that the amended Clothing Code and the Cotton Garment Code would agree in their definitions. When the time came for the submission of the Cotton Garment Code, Mr. Hunter, representing the proponents of that Code, claimed that they had not received adequate notice of the hearing which was held on September 25 and 26, in that while they were notified of the hearing, they were not notified as to exactly what was to be considered at that hearing, and he held that their members were not represented at and were not bound by, the conclusions reached or agreements reached as to the result of that hearing, and he declined to assent to the Code as submitted unless the definition of men's wash suits was included in the code as submitted to the President. The definition was included, with a provision that the matter could be determined by the Administrator, as I read in my opening remarks.

"The real purpose, therefore, of this hearing is to have those interested, if they wish, show cause why the Executive Order as proposed by Dr. Rogers, drawn up for submission to the President in accordance with the agreements reached after the hearings on September 25 and 26, should not be issued."

D. Approved Definitions.

However, no really satisfactory solution or decision was reached, and definitions on these garments as finally inserted in the approved Cotton Garment Code were in the nature of compromises and surrounded qualifications.

"Article II--Definitions

"A. As used in this Code the term 'Cotton Garment Industry' means and included the production by any of the following processes:****, of any article or garment known as

"(1) work clothing, work garments, work pants and children's play suits.***

"(10) men's and boys' pants in chief content of cotton.

"(14) men's cotton wash suits.

"The products covered by Section A, paragraphs 8, 10, and 14, are included in this Code pending the prompt holding of such further hearing on such notice as the Administrator in his discretion may fix, and the final determination of whether the definitions of any of them shall be modified or eliminated or whether any of the subdivisions shall continue to be included in this Code.

"D. If and when, because of the character of any product made by any employer or by any subdivisional industry, there arises any dispute as to whether such product is covered by the provisions of this or another code, the code authorities concerned will report to the Administrator the code under which such product properly belongs and in the event that the code authorities are unable to agree within a reasonable time, the Administrator, may, after notice and hearing, decide under which code the product of subdivisional industry manufacturing the same is covered."

E. Approved Hour Provisions.

"Article III. -- Hours

"A. No manufacturing employees shall be permitted to work in excess of 40 hours in any one week, or more than 8 hours in any one day.***"

F. Approved Wage Provisions.

"Article IV--Wages

"A. Except as hereinafter provided, no employee (except actual learners, etc.***) shall be paid at less than the rate of 30 cents per hour per 40 hour week***in the Southern section***, nor at less than the rate of 32½ cents per hour per 40 hour week***in the Northern section."

Article III also required an immediate investigation by the Code authority as to whether the 40-hour week was resulting in sufficient increased employment, so that the Administration might determine if the hours should be reduced further. So it was apparent that the Cotton Garment Code was approved by the Administration with a great many misgivings as to its successful operation and with the feeling that many changes and amendments would have to be made almost immediately.

CHAPTER III

AMENDMENTS TO BOTH CODES, DECEMBER 18, 1933

After the approval of the Cotton Garment Code, this competitive situation, especially on single pants, grew even more severe, many of the Men's Clothing manufacturers insisting that their business was very seriously threatened by the difference in wages, hours, and classifications provided in the two Codes, and the Administration decided that immediate further public hearings on the question were necessary, and notices were sent out for November 27th and 28th.

I. Public Hearing November 27, 1933. on Wash Suits.

A. Objections of Cotton Garment Industry.

Mr. Hunter, of the Cotton Garment Code Authority, speaking for the manufacturers of work pants and overalls who also made men's cotton wash suits, claimed that these cheap cotton wash suits, wholesaling at $24 and $31.50 a dozen, were produced in quantity lots in the cheapest possible manner and were in no way competitive with wash suits of seersuckers, etc., made by the New Orleans firms and others and sold for dress use, and that they should be made at the same minimum wages and maximum hours as overalls and all other Cotton Garment Industry products. (*) He submitted production data from eleven (11) of the twenty to thirty cotton garment manufacturers of these suits.

First Nine (9) Months of 1933
Men's Wash Suit Production and Dollar Volume (**)

"Suits	Dollars	Percentage wash suits to Production
25,000	$75,000.00	30%
14,400	46,800.00	6%
40,500	101,280.00	33⅓
65,900	145,560.00	14%
6,000	14,000.00	66⅔
36,100	72,000.00	48%
1,164	4,380.00	1%
116,000	203,000.00	20%
10,320	17,200.00	2%
2,875	11,500.00	16%
18,000	90,000.00	60%
336,800	780,700.00	16½%"

(*) Transcript of Hearing on Cotton Garment Industry, November 27, 1933, pages 13 to 26.

(**) Transcript of Hearing on Cotton Garment Industry, November 27, 1933, Page 178, AND Page 13.

Mr. H. G. Urban, of Stahl-Urban Company, stated: (*)

"The type of men's wash suits made in work clothing plants in the main are not in direct competition with the type of wash suits made under the clothing code for this reason. Our means of distribution are through the jobbing or wholesale trade principally, and these garments--these garments are sold in these wholesale-jobbing plants through their work-clothing divisions, and by their work-clothing salesmen in all rural stores, and the small agricultural general stores, for the low income class.

"I believe it is generally true the garments sold by the clothing people under a clothing code is sold direct by their agents or their own men to clothing stores, men's specialty shops, and clothing departments of department stores.

"These are for the medium and higher income classes; one is a semi-tailored garment and the other is a pure machine-made proposition.

"I know from experience in trying to sell these garments in stores where the garments made by the clothing people are sold, that we absolutely have no standing or no consideration. They tell us it is work clothing and they could not use it at any price, and we have never been able to sell that type of store even if we so desired.

"I feel that the criticism of unfair competition which I believe has been made, in view of the above, or the conditions as outlined there, from our own experience, is incorrect, and it is vital that they stay as they are now classified, under the Men's Cotton Garment Code; otherwise, there would be--well, we just cannot make the suits and compete under the increased costs necessary under the clothing code.

"There is still another factor that is vital--and I think that is the consumer's angle, this being produced primarily for the low income class--but with all due regard for the labor involved, the cost should be kept as low, on as low a plane, for that type of garments, as possible."

Mr. Sidney Hillman, of the N.R.A. Labor Advisory Board, claimed that the direct labor cost on this type of cheap wash suit would only be about 40 cents per suit, and that even if they were produced under the wages and hours of the Men's Clothing Code, the increased cost per suit would only amount to about 8 cents. Mr. Hunter vigorously denied this, claiming that the ultimate price increase to the consumer would be much greater. (**)

(*) Transcript of Hearing on Cotton Garment Industry, November 27, 1933, Pages 26 and 27.

(**) Transcript of Hearing on Cotton Garment Industry, November 27, 1933, Pages 28 to 30.

B. Arguments of Wash Suit Manufacturers

Mr. Joseph Haspel, representing the New Orleans wash suit manufacturers, claimed that these wash suits were in no way competitive with woolen suits, that they were really a separate industry, and again asked for a separate code; as a large proportion of their production was linen suits, they were arguing for both cotton and linen garments, and believed that their position was fully understood by the Administration. "When this brief was prepared by us giving our reasons for entitling us to a separate code, independent of the clothing code, because wash suits were not in competition with woolen clothing, we had no reason to suppose that our request would not be granted. As a matter of fact, we were led to believe that we had won our case and we were amazed to find that linen suits had been taken away from the wash suit group and put into the clothing code." (*) But linen suits were placed under the Men's clothing Code, and they then attended the hearing of September 26, 1933, as a result of which Dr. Lindsay Rogers drew up the proposed Executive Order on this overlapping problem.

> "At the termination of the hearing, while the Administration made no direct ruling, it was very apparent that he was going to place all wash suits in the men's clothing code, and we might add that informally he so stated to members of our group, and suggested that we get together with the representatives of the three manufacturers who were present, who were members of the Men's Clothing Code, and with the Labor Adviser, and work out an agreement under the clothing code.
>
> "We then went into a conference lasting from about 7 p. m. until well after midnight.
>
> "Certain terms were offered to us by the representatives of the three manufacturers in the Men's Clothing Code, from which they refused to recede whatever, and we, believing that there was no recourse to be had from the ruling which we knew that the Administrator intended to make, placing us in the Men's Clothing Code, and believing these to be the best terms possible attainable, and much against our better judgment, capitulated, and accepted their terms. However, before finally consenting thereto we asked that the matter be held up until the folling morning, when we might confer with the Administrator.
>
> "We were informed that unless this offer were accepted, then they would withdraw it. Under these conditions we accepted." (**)

Mr. Elmer L. Ward, of the Goodall Company, objected that the proposed differentials in the Executive Order were not sufficient to be of any assistance to his company, manufacturers of "Palm Beach" suits, and also asked that a separate wash clothing code be established.

(*) Transcript of Hearing on Cotton Garment Industry, November 27, 1933, Page 39.

(**) Transcript of Hearing on Cotton Garment Industry, November 27, 1933, Pages 42 and 43.

Mr. Haspel stated that rates of pay in these New Orleans plants had already been increased 85%, and any further increase over the 30 cent an hour rate would be an almost fatal hardship.

"We have increased the rates of pay in my particular factory, and that is typical of every other factory in New Orleans, 85 per cent over the pay that previously existed, before the passage of the N.R.A.

"We feel that if we are changed from a 30 cent an hour basis to a 35 cent basis, that is a difference of one-sixth or 16-2/3 per cent. Our cost of labor today is 185 per cent of what it was previous to the N.R.A., and this 31 per cent will increase our cost—will make out cost 216 per cent of what it was before the N.R.A. In addition to that, when we cut down the number of hours we calculate 40 per cent of the cost is that cost effected by a change in hours, which would increase that 4%, which would make our pay 220 per cent of what (what) it was previous to the N.R.A.; in other words, we have substantially increased our pay." (*)

C. Agruments of Men's Clothing Industry.

Mr. Leonard Weinberg, appearing for the Men's Clothing Code Authority, claimed that these men's wash suits were competitive with tropical worsteds and other summer clothing produced by men's clothing manufacturers.

"Are, or not, these garments which our friends talk about competitive with those manufactured of other materials?

"First, we say they are competitive, in the manner of their manufacture, and in the manner of their sale by the manufacturer, that the materials, whether they by seersucker, palm beach, tropical worsted, crashes, silk, or whatnot, they enter into the manufacture of summer clothes, and as summer clothing, are considered as one class by the manufacturer.

"They are considered by him as one class in the laying out of his line, not only that, but in the method of manufacture, and they go through the same method of manufacture in the plant, regardless of whether they happen to be made out of cotton or silk or crash or whatnot.

"The difference, if any, in the manufacture of clothing, we respectfully submit, are differences based on the standards that the particular manufacturer may care to set up for himself; in other words, whether he wants to manufacture fine clothing, or moderate priced clothing, or cheap clothing, but it is determined entirely by the standard, and not by the type of material which he happens to be using.

(*) Transcript of Hearing on Cotton Garment Industry, November 27, 1933, Page 81.

"If he wants to make fine seersucker, or palm beach, he lays out one method; if he wants to manufacture palm beach suits, or cheap seersucker, or linen, he lays out a cheaper method of manufacture, so that the difference, if any, is only a difference in the standard that the manufacturer himself sets.

"In relation to the sale of this line of clothes, and we are talking here of summer clothing, as distinguished from winter clothing, yet when we come to examine it, it is all clothing, all one article, whether it happens to be made of one material or not, but when we come to talk about the sale of this line of clothes to a retailer, against a summer line of clothes, it is displayed in exactly the same manner to the prospective retail purchaser by the manufacturer as any other line of clothes, there is no mark of differentiation between the two--the seersucker, the linen, poplins, or whatnot, or the tropical worsted. They are different manufacturers of a summer line of clothes. They differ in price, yet as I shall point out to you later, that very difference in price is an overlapping, because seersuckers and linens and poplins and worsted in wholesale and retail prices overlap, and there is no near line of distinction marked between them." (*)

"We say that putting them under this Code grants them an absolutely unfair competitive advantage and in direct violation, if you please, of the spirit and of the letter of the National Industrial Recovery Act, first, because it gives them this differential in price. I am not talking about the differential because of the locality, South or North. We make no complaint about that, but we say the differential they should suggest by coming under the Cotton Garment Industry gives them a very definite differential in price, which is in direct violation of the spirit and intent of this Act, which was to see to it that there should be no unfair competitive disadvantages or advantages between people in the same industry.

"These differentials result in an increase in the selling price of at least $1 to $1.50 per garment, or from 10 to 20 per cent. There is not any doubt about that.

"Secondly, to secure this other advantage by coming into the Cotton Garment Code--under that code, apprentices, 10 per cent of the total force, are permitted, with a wage of 25 per cent less than the minimum, for a period of six weeks. No learners are permitted under the Clothing Code.

"They get the other advantage where all employees under the Men's Clothing Code, earning in excess of the minimum, must be continuous. They escape that.

(*) Transcript of Hearing on Cotton Garment Industry, November 27, 1933, Pages 91-92.

"In addition to that, cotton garment manufacturers under their code may operate machinery for more than one shift. Under the Clothing Code they may not; and if they are to be given all of these advantages, we submit that they are being put in a position where they can compete with us unfairly in price, in manufacture, and in every other direction and situation." (*)

Mr. Weinberg also made the following statement, claiming codes were "laid out to cover industries, and that all manufacturers of the article should be included under the Codes.--We contend that it is not the material--it is not the material which characterizes under which Code the article must go, but the article, not the material." (**)

Mr. Malcolm Lauchheimer, representing L. Greif and Bro., J. Schoeneman, Cohen, Goldman & Co., etc. all manufacturers of summer clothing, further claimed that these firms directly competed with the New Orleans group. (***)

"Mr. Administrator, Mr. Godchaux has made the mistake of classifying clothing as woolen and cotton goods. Clothing is classified into heavy and summer clothing. We are representing the summer clothing manufacturers.

"Those summer clothing manufacturers do manufacture, in the same factories and with the same employees, cotton wash suits and woolen summer goods. They are directly competitive, and these manufacturers sell in competition with Mr. Godchaux. We have here manufacturers who can testify that their methods of manufacture are the same and their factories are used for the same purpose.

"We also have a retailer from Baltimore who will testify that he purchases cotton and summer woolen clothing as part of the same schedule. We sell at one time cotton goods and woolen goods as one line.

"There is no other industry in the cotton garment code which competes with men's summer suits--men's wash suits. They do compete with every manufacturer covered by the men's clothing code.

"Judge Walsh spoke of utilitarian garments. What he means by that I do not know. There is a separate heading under the Cotton Garment Code of work garments which is in there, and we do not ask that it come out. We are speaking only of dress suits that are not competitive. It does not require testimony to show they are competitive.

(*) Transcript of Hearing on Cotton Garment Industry, November 27, 1933, Pages 98 and 99.

(**) Transcript of Hearing on Cotton Garment Industry, November 28, 1933, Page 25.

(***) Transcript of Hearing on Cotton Garment Industry, November 27, 1933, Pages 170 to 172.

"There are three things in the Act that are required in promulgating a code. The code must be one of fair competition, to do away with unfair competitive practices. That is the first thing. I say that Mr. Godchaux's industry is directly competitive with the summer goods trade in the clothing industry.

"The second point is that the code must be truly representative of the trade or industry. I cannot conceive that cotton wash goods are a separate trade and industry. Certainly if I buy a cotton wash suit I will buy one less woolen suit for summer wear, and I am typical of millions of other men in the north. Cotton wash goods, it is true, are new things in the north, but they are established and they are established as competitive of linens and of tropical worsteds. Three years ago I had never worn a wash suit. I do now. I wear tropical worsteds. Last year I bought no summer worsteds but bought a seersucker.

"The third point is that the code must be promultated so as to induce and maintain united action of management under Government sanction and supervision. You cannot do that except with a unified code--one code over two industries and not two codes over one industry."

Mr. L. S. Goldsmith, representing the Goodall Company, presented the following arguments for the wash suit group:

"The main contentions that we have to make are, very briefly, as follows:

"1. That Professor Rogers clearly expressed his views that special consideration be given the wash suit industry. This was done after a day-long interchange of arguments.

"2. That Mr. Hillman expressed a willingness to consider that contention.

"3. That the chief reasons for this special consideration are---

"A. Manufacturing differences; unskilled operators doing unskilled and sectional work; differences due to wash construction.

"B. Fabric differences--50 per cent of our output is white; 85 per cent of our output is light-colors, entailing additional laundry tax.

"C. Short season as compared with worsteds, etc. Since our suit does not take the place of wool or worsted, hence the consumer is not willing to pay the price he will pay for a suit that can be worn for a longer season.

"D. A new industry giving new employment to mills, manufacturers, retail merchants, and laundries is in the making, growing steadily, and should not be throttled by conditions that do not apply to it.

"Finally, that there should be no discrimination in regard to the type of fabric or suit entitled to such concessions other than that they be wash suits." (*)

(*) Transcript of Hearing on Cotton Garment Industry, November 27, 1933, Pages 175 and 176.

II. Public Hearing November 28, 1933, on Single Pants - Deputy Administrator B. H. Gitchell, presiding, opened the hearing with the following statement:

> "Hoping to get some light on the subject, I asked for an informal conference in New York last week. Mr. Hunter organized a small group of his people, and Mr. Drechsler organized a small group from the Men's industry to see if we could find some common ground for a settlement of this problem, and a recommendation which might be submitted at this hearing. The nearest we were able to get to a solution was the general agreement on the part of those representing the Men's Clothing Industry that single pants made of denim undoubtedly should be administered by the Cotton Garment Industry, and the general agreement on the part of those speaking for the Cotton Garment Industry that pants which are made as part of a suit should be administered by the Clothing Industry; so that we are confronted today with a problem of trying to allocate everything between those two extremes to the two Codes."*

Prior to this hearing, Deputy Administrator Lindsay Rogers had appointed George P. Dowling, of Strawbridge and Clothier, Philadelphia, Pennsylvania, to make a limited investigation of this pants controversy.

A. Report of George P. Dowling

Mr. Dowling read the following report at the hearing held November 28, 1933:

> "The following report is the result of my survey for investigation of the manufacturers sent me by your assistant.
>
> "I have contracted most of those on my list, having spent one day in Scranton and two days in New York City. I find that the men's and boy's trouser industry are somewhat mixed up. For instance, I find, in investigating the plant of Halpern and Christenfeld of New York City, that at least 95 per cent of their output is manufactured of cotton fabrics, yet they are listed under the men's clothing code and we compare them to, for example, the Hercules Manufacturing Company of New York, who make at least 35 per cent of their products from woolen fabrics, yet they are under the cotton code.
>
> "I am going to use these names here, because the names were on my list, and these are the people that I visited.

(*) Transcript of Hearing on the Cotton Garment Industry, November 28, 1933, Page 7.

"That condition exists all along the line, and I, myself, would be unable to place any manufacturer in any particular code under these circumstances. My recommendation to you is that the entire industry of men's and boys' trousers, whose products exceed 60 per cent made from cotton fabrics, should be placed under the cotton code. If that were done, I think you would find that the entire industry would be placed in that code, but I find in my investigation that the manufacturers as a whole, would like the entire industry placed under the code, regardless of whether it would be clothing or cotton, and they would be satisfied.

"On this code, with the contact I made of the several manufacturers that I called on, some are on the cotton code and some are on the clothing code, and I think the concensus of opinion given then was to give them one code regardless, and they would be satisfied, as I said heretofore.

"As it is now, it would take a concern, such as Happ Brothers of Macon, Georgia. In the boys' knicker line, they are highly competitive with a house known as the O. K. Knee Pans Company, Louis Rosenblatt, or any other knee pants manufacturer that I have come in contact with, and yet, they being under the cotton code, are in a position to undersell these three manufacturers which I have named, who are under the men's clothing code, at a difference of at least 20 per cent, which to my mind, makes very unfair competition.

"I can cite the same instance in the men's trouser manufacture and would compare the Hercules, Meyer, Isaacs, with Halpern and Christenfeld, Kalikow, Brothers, Greenstone-Stern, Berman and Rafkin. Most of those manufacturers are operating under the Men's Clothing Code, and Isaacs, Hercules, Moyer, Kalamazoo, Oberman are operating under the men's cotton code, and they are all engaged in practically the same line of business.

"The Anthracite Overall Company and the Lackawanna Pants Company of Scranton, I understand, are owned and operated under the same owner. One was placed under the Cotton Code, and the other under the Clothing Code, but recently the Lackawanna Pants Company has, I understand, been temporarily placed under the Cotton Code, and I feel that if the Anthracite Overall Company is under the Cotton Code, then the Lackawanna Pants Company certainly belongs there, also.

"I would be very glad to come to Washington to go into this matter with you in more detail, but I certainly cannot see how this particular industry can operate under two separate codes. It means that those under the Clothing Code would not be able to compete with those under the Cotton Code because of the difference in the cost of at least 20 per cent or 25 per cent, and they all manufacture practically the same grade of garment,

"Therefore, if my recommendation or suggestion is worthy of consideration by you, I most certainly would recommend, as stated in another part of this letter, that this entire industry, regardless of who or where they may be, be placed under one uniform code which gives them an opportunity of meeting their competitors on a fair basis. Otherwise, I am afraid that as it is now, those operating under the Men's Clothing Code would be unable to compete with those operating under the Cotton Code, and the result will be that some of them will have to close up their plants.

"I trust that this report will reach you in due time and that a personal conference might be more satisfactory. If so, please notify me and I can assure you that I am at your service."

B. Argments of Men's Clothing Industry.

Mr. Joseph E. Brill, of the National Boys' Pants Manufacturers Association, Inc., spoke as follows:

Rolls of fabrics, "one containing some percentage of wool, the other being all cotton, are laid on the table on top of each other, marked at the same time, and cut at the same time.*** ***It is quite obviously impossible to apply two codes to the pants industry.*** The factor which determines the nature of the fabric upon which the operations are conducted is the season of the year:--December to June manufacturers made practically all cotton fabric products, July to November products consist of cotton, mixed cotton, and a small percentage of wool.***This pants business does a volume of about $95,000,000 per year.***The difference that exists today in the cost of manufacturing between the two codes is between 20 and 25 per cent.***It is impractical and impossible to operate a pants factory under two codes. All manufacturers in the industry are in agreement that its best interests can be served only by the application of one code to the industry."*

(*) Transcript of Hearing on Cotton Garment Industry, November 28, 1933, Pages 10 and 16.

Mr. David Drechsler, Secretary of the Men's Clothing Code Authority, submitted the following table of single pants production for 1931:

"Reported under Men's, Youths' and Boys' Clothing (other than work clothing)--Census of Manufacturing ---1931

	Pairs
"Men's and Youths' Suit Trousers	24,651,398
"Boys' Suit Trousers	8,850,629
"Men's and Youths' White Duck Uniform Trousers	4,040,862
"Uniform Trousers	748,926
"Men's and Youths' Separate Trousers	18,523,055
"Boys' Separate Trousers and Knee Pants	12,806,088
"Sport Knickers	1,855,648
"Riding Breeches	1,383,132
	72,859,738

"Work Pants

"Denim	Pairs
"Overalls	49,402 ,596
"Work Pants	6,653,208
"Total Denim	56,055,804
"Overalls (of other cotton cloth)	10,566,464
"Total Denim and Overalls (of other cotton cloth)	66,622,268

"Work Pants

"Khaki, Corduroy, Drills, and Woolens, 20,403,824 pairs."

And the following is a summary of his arguments for the Clothing Manufacturers.

> "I dare say there is not a clothing manufacturer in the country that at some time or other does not manufacture single pants - one-third of the clothing industry is the manufacture of pants. Is there any line of demarcation between single pants and pants of a suit?
>
> "Now you are going to put this clothing industry, employing hundreds of thousands of workers, all over the country, whose capital investment rates in the billions, in an unfair competitive position, because there are some twenty million single pants that are manufactured, which perchance you and I cannot tell whether they are going to be used for clothing, dress purposes, or for work. You know that I refused to put or comply with any request to differentiate between suits unit pants and

single pants, the figure is 68,000,000 some 33,000,000 pants made which are part of suits units, and 30,000,000 single pants, but those are all wool content pants. Then there is a well-defined group to which the clothing industry makes no claim - these are pants made of denim cloth and commonly known as work pants. Census figure for 1931 shows total work pants was 56 million. So you have 68,000,000 pair of pants where there is no dispute that they belong to the Men's Clothing Code, and you have 56,000,000 pants where we do not dispute they belong to the Cotton Garment Industry.

"The pure labor cost of a pair of pants, in the men's clothing shops, is about 33 cents. The differential, as found by Mr. Dowling, in the cotton garment shops, is 20 or 25 per cent. It would make a difference of 8 cents on a pair of pants. You have 24,000,000 (including 4,000,000 duck pants) pants in the so-called 'twilight' zone, and the people of this country would be compelled to pay as a penalty for putting these 24,000,000 pants in the clothing code, a penalty of 8 cents per pair - some $2,000,000. It will save the standard of practice, hours and labor where it is under the entire clothing industry and I say it will bolster up the entire industry. You cannot cut 1/3 of it and expect to have the other 2/3 stand up. You will create a larger purchasing power of some 32 million single pants workers, and you will not hurt those manufacturers of pants in the country who work on denim. This 8 cents per pair will be spread over the entire country and will create a larger consuming power. This is not profit, it is additional wages that circulate throughout the country, and it amounts to $2,000,000.

"There are some 6,000 workers that operate under the Men's Clothing Code that make men's single pants, and single knee pants."

Summary of Points Submitted Brief of Men's Clothing Code Authority

1. Two codes cannot successfully operate in one factory.
2. There is no distinction in the skill of the worker, nor the plant and machinery, in making suit pants and single pants.
3. There would be no means of identifying the two classes of work. The workers would not know which they were actually making. Enforcement of compliance would be very difficult.
4. Any hour basis over thirty-six would tend to further reduce the number of employees that can and should be re-employed.

5. Large numbers of workers have already been put out of work by the unfair competition of the Cotton Garment Code, and many more will be unless this condition is corrected.
6. Additional cost per pants would be only eight cents and permit thousands of workers to retain their jobs.
7. Skill and machinery, etc., required to make denim pants and overalls, are different, and these should remain under Cotton Garment Code.

Mr. Hyman Blumberg, representing the Amalgamated Clothing Workers of America, said:

> "The argument that you cannot adapt yourselves to 40 cents an hour are only arguments that involve prices. Price, if you are today living up to your 32½ cent an hour—if you are paying 32½ cents an hour, then the problem would come to from 5 to 7½ cents additional labor cost on a pair of pants.
>
> "The 40 hour week does not enter into it, because if you pay 40 cents an hour the 40 hour week does not remain a problem, because after all I question whether all of the pants that are needed in this country cannot be made by the factories you gentlemen operate, and made at the convenience of the public on a 36 hour week, so the problem is one of cost, and I will say the cost problem would not exceed from 5 to 7½ cents on a direct labor cost of a pair of pants, and for the Administrator to permit you gentlemen to operate on a 40 hour week and 32½ cent minimum in the North and 30 cents in the South will be sowing the seed for complete disintegration of a number of pants shops today, making both men's suits and pants, and single pants."
>
> In Baltimore there are from 15,000 to 18,000 pairs of pants made a week that are made by single pants manufacturers and a number of them make about 90% cotton, about 10% woolen. They are operating under the Men's Clothing Code, and they do not belong to any particular group--Mr. Brill's or Mr. Drechsler's. The shops happen to be union shops. They went through this season, but I question whether they will open up the next season. They cannot stand the competition of single pants manufacturers working under a Cotton Garment Code.
>
> "So, summing up, pants are conceded to be clothing, leaving out denims, overalls, that mechanics wear. In the Clothing Industry, the overwhelming majority are under the Men's Clothing Code. The difference is the question of price; the manufacturers want to be fair to the public, and tack on the labor cost. The labor cost only would mean from 5 to 8 cents in

addition to the cost, depending on the efficiency of the shop. That would be at the top, taking the completely inefficient shop, would be $1 a dozen in labor, assuming you are paying 32½ cents an hour.

"The worker will not object to paying that 10 cents, if he knows by doing that he avoids confusion in an industry employing 150,000 people." *

Mr. Miller, also of the Amalgamated Clothing Workers of America, speaking in reference to the unfair competition by the Cotton Garment Code plants, said:

"About fourteen or fifteen months ago we organized thirty-five or forty shops in Brocks, Lehigh and Montgomery Counties, Pennsylvania. Most of these shops are making pants. They do not discriminate whether these pants come from one branch or another. They make pants.

"In the springtime mostly they make them for different cotton cloth manufacturers, because they get what they call White Sanforized stuff. Some shops make a very high priced woolen stuff. They make all kinds of pants, all branches. How you can differentiate and how you can subdivide them, I do not know. A number of them, I might state, who also make pants for people in New York or Philadelphia who are legitimate suit houses.

"The shop in Pennsylvania that I refer to, with a capacity of about 9,000 to 10,000 pants per week, is a shop that has been working full force for a long time. The shop was working for New York manufacturers and was working under the Clothing Code, 3,000 per week for the last two months. Now that shop, for the first time in a long while, has been closed just because the manufacturer who has been supplying them with about 6,000 pants per week told me, "I can no longer supply their shop with work because I can get my stuff made up by contractors all over the Southwest and West by manufacturers members of the I.A.C.M.', and if necessary, I will tell you the names of the manufacturers in private, and mention the name of the shop in question."*

The following letter indicates the competitive situation as affecting those plants operating under union agreements with the Amalgamated:

"We manufacture pants, the same type of pants that virtually every other pants manufacturer in this vicinity makes, namely--all cotton pants, part wool, and all wool.

(*) Statement of Mr. Miller, of the Amalgamated Clothing Workers of America, Transcript of Hearing, November 28, 1933, Page 85.

"We understand that any garment that has any wool content whatsoever comes under the Men's Clothing Code, and that the manufacture of cotton pants at the present time has been assigned by Executive Order of the President of the United States under the Cotton Garment Code, with a $12 per week minimum for 40 hours.

"We have, at the present time, a contract with the Amalgamated Clothing Workers of America, and in view of that contract, the Amalgamated in our contract shops is compelling us to pay a minimum wage of $14.40 in accordance with the Men's Clothing Code, on all types of product that we manufacture. We are perfectly willing to do this if our competitors do the same, but we understand that our competing manufacturers are working under the Cotton Garment Code, which requires them to pay only a minimum of $12.00 per week for 40 hours, thus giving them a decided advantage over us in the price of manufactured goods, as the type of employee in our contract shops is identical with our competitors." *

C. Arguments of Cotton Garment Industry.

Mr. Sidney Moyer, Secretary of the Association Pants Manufacturers of America, said:

"We came down here on August 7th and spoke to Dr. Rogers, and wanted to find out the situation as to the pants situation.

"We believed that we belonged some place in the picture. He told us to tell our story, and we told our story, and we told them how much cotton pants we made, and how many wool pants.

"We could not tell them exactly, and, as I am on the staff of the Associated Pants Manufacturers of America, Dr. Rogers told us to go out and find out just how many were made, and bring in a report, and that we would hear from him the next week.

"We sent out a lot of wires and got a lot of information. I want this report put into this record, because I think it is very important.

"This report shows that the pants manufacturers make not only pants, but overalls, coveralls, overall coats, blanket-lined coats, play suits, work shirts, and semi-dress shirts, blazers, lumberjacks, and a great many other garments, all of which are set forth on this tabulation.

(*) Letter dated October 28,1933, from the New York Pants Manufacturing Co., Baltimore,Md., to George S. Robertson,Jr., Men's Clothing Code Authority for Md.and Va., Baltimore,Md.(Men's Clothing Code Files.)

"In this long list of garments set forth here, I might say that these are all manufactured on the same machines, and by the same workmen, and on a quantity production basis, low priced, and sold to the lower income classes.

"In practically no instances are these people who are employed in these plants skilled workers in the ordinary sense, but they are simply machine operators, or a little above that.

"These are made for the lower income classes, as I said, and they are purely production goods for such purposes.

"When we submitted these facts to Dr. Rogers, and to the other proper authorities, they told us that we belonged in the Cotton Garment Code, and there we were." **

In reply to the questionnaire sent out by this Association, replies were received from 130 of their members, giving data for 1931 on quantity production, dollar volume, and percentage of pants by materials. It is interesting to note that 45 of these firms reported that they manufactured pants exclusively. The summary of these reports is as follows:

"

"Pants Production for 1931:	
130 companies, except 69, 70 and 94.	
Number of dozens	3,098,760
Value of pants	$36,346,219
"Percentage of Pants by Materials:	
All cotton	86 *
Part cotton	7.5 *
Wool	6.5
"Pants Production for 1931:	
Average	
Number of dozens	24,500
Value of Pants	$300,000
"Percentage of Pants by Materials:	
All cotton	86 *
Part Cotton	7.5 *
Wool	6.5

(**) Telegraph reply reported total ef all cotton and part cotton as cotton. If these had reported pants of part cotton it is estimated that the average for all concerns listed would be 83.5 per cent all cotton, 10 per cent part cotton, and 6.5 per cent wool.

(*) Transcript of Hearing on Cotton Garment Industry, November 28,1933, pages 127 and 128.

"Pants Production for 1931:

Total U. S.		
Number of Dozens	5,151,600	(61,819,200 pants)
Value of Pants	$85,562,000	

"Pants Productions for 1931:

Percent of U. S.	
Number of Dozens	60%
Value of Pants	42.5%

"Pants Production for 1931:

Non-wool pants:		
Associated		
Number of Dozens	2,928,460	(35,141,520 pants)
U. S.		
Number of Dozens	3,502,000	(42,024,000 pants)
Per Cent of U. S.	83.6%	

420,000 dozen wool and part wool pants made by New York group.
5,000,000 pants wool and part wool made by New York group.

"Pants Production for 1931:

40 Concerns, Pants Only	
Number of Dozens	1,013,331
Value of Pants	$11,639,529

"Percentage of Pants by Materials, 1931:

All Cotton	81
Part Cotton	10
Wool	9

" Pants Production for 1931:

90 Concerns	
Number of Dozens	2,085,439
Value of Pants	$24,706,690

"Percentage of Pants by Materials, 1931:

All Cotton	88
Part Cotton	7
Wool	5*

Mr. Benjamin Berman, representing the Crown Overall Company, of Cincinnati, Ohio, and the International Association of Garment Manufacturers, suggested the following solution of this problem:

"I maintain there should be no change in the hours for the cotton garment industry, whether or not those operators are working on cotton pants or the cotton garment code.

(*) Appendix of Transcript of Hearing on Cotton Garment Industry, Nov. 28, 1933, Pages

"Summing it up, we have selected as the dividing line 100 percent all cotton pants to be made on the cotton code prices, and we suggest that woolen pants and part woolen pants which may be made by our manufacturers may be made on clothing price of 40 cents and 37½ cents, that the hours remain in the cotton garment industry 40 hours.

("Deputy Gitchell. Even as applied to wool or part wool trousers?")

"Even as applied to wool and part wool trousers, for this reason, that the percentage of woolen and part woolen trousers manufactured by those operating under the cotton garment code is small, and is not in my personal estimate a vital factor to disrupt the whole industry.

("Deputy Gitchell. Would that include the work pants made of cheap shoddy?")

"There is a definite line easily determined, the source of supply of the material. All cotton garment code, anything else wool code prices, 40 cents and 37½ cents.

"There you eliminate the competition that is being complained about for woolen pants. The clothing people never did make any cotton pants to the percentage they are to claim to the Administrator.

("Deputy Gitchell. Are you authorized to make these proposals for them?")

"Yes, I am authorized to make that proposal."(*)

Mr. Herman A. Speh, of the Drybak Corp., Binghamton, N. Y., suggested a clearer definition of work pants, and filed the following brief in support of his arguments:

"Mr. Administrator: 'Referring to our request of November 24, to you on hearing No. 15-D to be held November 28 at 10 o'clock A.M., we propose that paragraph 10, Section A, 'Men's and Boys' Pants in Chief Content of Cotton' be eliminated entirely.

1. Because this defines only one type of pants and is ambiguous. Its only interpretation could be pants of a material of which the value of the cotton is more than 50 per cent of the total value. It is impossible in the ordinary course of business to determine the exact cotton-value content of piece-goods, and it is possible to conceive of a material more than 50 per cent cotton by weight but whose chief content or principal value is in wool or rayon. This paragraph, as it is,

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(*) Transcript of Hearing on Cotton Garment Industry, November 28, 1933, Pages 156 and 157.

therefore, would be the cause of many disputes.

2. No pants manufacturer deals exclusive in the materials described in paragraph 10, Section A. They constitute only a part of output and there is no reason why this part should receive special consideration in the Code. In our case, materials whose chief content is anything but cotton are almost nonexistent.

"We call attention to the fact that 'work pants' are included in paragraph 1, Section A, of the Code and that pants in chief content of cotton may be either work pants or dress pants, the distinction being in the style, tailoring skill, and method of manufacture. Paragraph 10 is, therefore, inherently a part of paragraph 1 and should be eliminated. We consider that this was recognized by Administrator Johnson in his recommendation to the President of this Code, dated November 7, 1933. (See United States Printing Office copy of the Code, Page 8, second paragraph.)

"On this premise we argue that a work pant is a type of product which had been made and distributed for years in large volume and is usually recognizable by (a) its material, (b) by its method of production, (c) type of construction (d) by the channels of distribution through which it moves and (e) by the type of consumers who purchase it and the use to which it is put.

(a) Material may be all cotton such as cottonades, khakis, denim, prints and ducks. It may be part wool usually with a cotton warp, and a small percentage (25% to 40%) of shoddy wool filling. It is easy to recognize material used for work pants.

(b) The characteristic method of production of work pants is a table lay, cut as high as 96-ply, of assorted sizes on standard patterns or stencils and depending upon the length of the cutting tables, in quantities as large as ninety-six dozen on one table and at one time by power driven knives. The cut pieces are then bundled in lots of one or two dozen garments, depending upon the weight, which the machine operator has to handle without protection of the garments against outside damage.

From this point they move to the sewing rooms, where they are processed on power driven machines arranged sectionally and moved through a regular series of stitching operations to completion. Operators are usually skilled only in the particular operation and machines on which they work and are required to have no tailoring skill. No hand operations are performed. Pressing is done by power-driven machines and practically all operations are paid by piecework per dozen or per hundred. Almost all operators employed in this production are women.

(c) As to type of construction, the patterns are crude and inexact as to line compared to dress pants. Trimming materials such as buttons and pocketing are less expensive. Methods of seaming not permitted in dress pants, such as double or triple seams, are used; raw out edges are not trimmed to the extent of dress pants. Speed of production and strength of wearing qualities are the principal aims.

None of the pants are made to match other garments, such as coats or vests, but are made as single garments to serve a particular purpose in work or play. On such an understanding, there disappears most of the difficulty outlined by General Johnson on Page 7 of the printed copy of the Code, second and third paragraphs.

(d) The distribution of work pants has characteristics very distinct from that of dress pants. Work pants have always been distributed either through the wholesaler of dry goods or general merchandise to retailers on the side streets of large cities or in rural towns. It distributes direct to the retailer, they have been sold to the small side street retailers and not to the department or first-class men's clothing stores. The common unit of sale by manufacturers and jobbers is one dozen.

(e) Work pants are purchased by and worn by the farmer and the working man and the retail stores which sell it to him are located in the railroad and industrial centers and in the smaller cities and villages adjacent to the farming area.

"We point out that the Department of Commerce has associated work pants always with the types of articles also listed in Section A, paragraph 1. (See Bureau of Census Form 208 for 1931, Page 5, Line 39.) We argue also that this same Department has always associated, as competitors for the Consumers' favor, work pants and overalls. (See their reports for the last three years on work clothing.) Therefore, work pants and overalls must be in the same Code and produced under similar conditions of wages and work weeks.

"From IG208 Department of Commerce, Bureau of Census, released January 22, 1932, Page 2, last two paragraphs, indicates that Bureau has always regarded the work pants and other articles listed in the Cotton Garment Code as a distinct industry from men's, youths' and boys' outer clothing.

"Because we believe that a work pant is easily recognizable once the general conditions surrounding it are understood, we, therefore, propose that paragraph 10 be eliminated and

That the question at issue be settled by a definition of 'Work Pants' in paragraph 1, to be added to the Code along the following lines:

"'Work pants, as used herein, means and includes men's and boys' pants of cotton, or whose chief content by weight is cotton, produced in substantially the same manner as the other garments specified in Section A by operators employed on sectional power machine work, and which garments do not require tailoring skill.'

"In this brief we are speaking primarily for our own company. Because of our long experience and acquaintance in the trade, we believe that our proposals would be substantially approved by our competitors."(*)

Mr. J. L. Wines, of the N.R.A. Labor Advisory Board and of the United Garment Workers of America, spoke as follows in suggesting that pants of all cotton be placed under the Cotton Garment Code, and those made with part shoddy and/or wool be placed under the Men's Clothing Code:

"Speaking as a representative of an international labor organization that has agreements with a number of employers in the work clothes industry, work clothes and shirts, I am of the opinion that two codes in the industry will not work out satisfactorily. I am ashamed, however, of the wage rates that are in the Cotton Garment Industry Code. They mean nothing at all to our membership that are employed in this industry where we have union agreements. Directly they mean nothing to our membership because we do not receive one penny increase in wages; their hours were not shortened because we have in our agreement the forty hour week since 1931. We contended in 1931 with the union-made association committee that there was not enough work to ever keep their factories operating eight hours per day, five days a week. There has nothing happened in the industry since that time that will cause us to change our minds. No one of our plants, not one, have operated forty hours a week since 1931, averaged forty hours per week. Many of them may have a few weeks at a time that they have worked full time, but the majority have not worked more than thirty hours per week, or thirty-five at the most. Indirectly our membership and employers whom we have had the pleasure of dealing with, are benefited even by the minimum, and even if that is only thirty cents per hour in the South and thirty-two cents in the North. They have

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(*) Brief presented by the Drybak Corporation, Inc., Binghamton, N. Y. Transcript of Hearing on Cotton Garment Industry, November 28, 1933, Pages 179 to 184.

benefited because of the unfair competition of the non-union manufacturer who, in many localities, has been paying as low as $2.00 and $3.00 per week and working as many hours as the state laws would permit them to work women employees.

"We are of the opinion that the minimum scale on pants that are made of all cotton shall be, as now, in the Cotton Garment Code, and that the minimum scale on pants, the material of which they are made is of shoddy or of wool, be changed to forty cents in the North and thirty-seven and a half cents in the South.

"The question of hours should be taken up as the Code provides for, within a period of sixty days from last Monday. I do not think we are going to solve the unemployment problem unless we adopt a thirty or thirty-five hour week and increase the minimums of our Code."(*)

Judge Raymond A. Walsh, counsel for the Cotton Garment Code Authority, expressed similar views, as follows:

"You must realize that you are dealing with a utilitarian garment again, and it is going to a certain class of citizenship, and these goods are the stock of the poorer class of merchants, and are to be sold to those who can only afford a few cents to pay for a pair of pants. If you can take cotton pants from the Cotton Garment Code it will have the most injurious and disastrous results, as shown by the lengthy table submitted here; pants have been manufactured in a number of factories where they produce goods of a utilitarian workman character, work clothes, work pants, and so forth. That is what those factories specialize in, and these work pants are produced merely along with the other type of goods so produced, and for the same general utilitarian, low cost, low resale value type of goods.

"I think that if you place the cotton garment minimum on pants in 100 per cent of cotton, or pants chief in content of cotton, as you will, and place a differential, as I said, in the Cotton Garment Code on wool pants and on wool mixtures, that will settle that situation. Then, as I said, you can take up the hours under the provisions of the Code. . . . . "

"We asked the clothing manufacturers to assist us in fighting convict labor five years ago. I think Mr. Hunter will testify that they never contributed five cents to the campaign, and they showed absolutely no interest in it, because they did not feel this great competition from the cotton clothing, they did not feel the competition of these thousands and hundreds of thousands of dozens of pants that

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(*) Transcript of Hearing on Cotton Garment Industry, Nov. 28, 1933, Pages 212 and 213.

have been dumped on the market for the last twenty-five years. They did not feel that any more from the convict labor, than they have felt it from the work in our plants."

Deputy Administrator Gitchell closed the hearing with the following statement:

"The question to be settled is involved and difficult, and these questions will receive our best and most earnest and careful consideration.

"We would be extremely grateful, and I believe the industries will be better served, if it were still possible for those representing the clothing industry and the proponents of the Cotton Garment Code to find it possible to get together and recommend a solution which they believed would enable the industries to operate to the best advantage for themselves and their employees and the consumers whom they are serving.

"If you do not get together in that manner, of course the duty is then upon the Administrator to make a decision which can not, I believe, be as wise as that which you are capable of making by negotiation, conference and agreement for yourselves."(*)

III. Changes in the Two Codes as Approved on December 18, 1933.

All these public hearings and subsequent conferences between the various groups failed to produce any agreements satisfactory to the Code Authorities and the manufacturers of these disputed articles. It therefore devolved upon the Administration to inaugurate the changes in definitions and wage and hour provisions which would appear to offer the most satisfactory immediate relief to the very tense competitive situation.

General Johnson's letter of transmittal to the President, dated December 18, 1933, gives a very complete picture of the controversy and the various phases of it up to that time.

A. Men's Clothing Code Definitions and Wages.

The Men's Clothing Code was changed as follows:

Article I. (Definition), which read: "The term 'Clothing Industry' as used herein, is defined to mean the manufacture of men's, boys' and children's clothing, uniforms, single knee pants, single pants, and men's summer clothing (exclusive of cotton wash suits)," was amended so that the expression "single pants, men's summer clothing (exclusive of cotton wash suits)" was changed to read: "single pants

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(*) Transcript of Hearing on Cotton Garment Industry, November 28, 1933, Page 226.

(except work pants or single pants when made in work-clothing factories) and men's summer clothing (except men's wash suits of 100% cotton content, when made in work-clothing factories in conjunction with work clothing)."

The second paragraph of Article II, which reads as follows: "The minimum wage paid by employers to employees working on single knee pants shall be at the rate of thirty-seven cents (37¢) per hour," was deleted, and in its place was inserted: "The minimum wage paid by employers to employees working on single knee pants and/or single pants shall be at the rate of thirty-four cents (34¢) per hour when employed in the southern section of the industry, and thirty-seven cents (37¢) per hour when employed in the northern section of the industry."

The following wording was added as the third paragraph:

> "The minimum wage paid by employers to employees working on men's wash suits of one hundred per cent (100%) cotton content, shall be at the rate of thirty-four cents (34¢) per hour in the southern section of the industry and thirty-seven cents (37¢) per hour in the northern section of the industry; the minimum wage paid by employers to employees working on men's summer clothing (other than men's wash suits of one hundred per cent (100%) cotton content) shall be at the rate of thirty-seven cents (37¢) per hour in the southern section of the industry, and forty cents (40¢) per hour in the northern section of the industry."

At the end of paragraph (e) of Article II, which reads as follows:

> "(e) On and after the effective date, the minimum wage which shall be paid to cutters shall be at the rate of One Dollar ($1.00) per hour, and the minimum wage which shall be paid to off-pressers shall be at the rate of seventy-five cents (75¢) per hour,"

was added the following expression:

> "except that in the southern section of the industry the minimum wage which shall be paid to cutters of all men's wash suits and/or summer clothing shall be at the rate of eighty-five cents (85¢) per hour, and the minimum wage which shall be paid to off-pressers of such garments shall be at the rate of sixty cents (60¢) per hour."

B.. Cotton Garment Code Definitions and Wages.

The Cotton Garment Code was changed as follows:

Before Article II was amended, Section A, Subsections 10 and 14 read: "(10) Men's and Boys' Pants in chief content of cotton," and "(14) Men's cotton wash suits." As amended, these subsections were made to read: "(10) Men's and Boys' pants, when made in work-cloth-

ing factories," and "(14) Men's wash suits of 100% cotton content, when made in work-clothing factories in conjunction with work clothing."

C. Conditions in the Order of Approval.

"1. That no manufacturing employee engaged in the production of men's wash suits of one hundred per cent (100%) cotton content and/or men's and boys' pants when either of the foregoing is made in work clothing factories in conjunction with work clothing or work pants, shall be paid at less than the rate of thirty-four cents (34¢) per hour in the southern section of the industry, or less than thirty-seven cents (37¢) per hour in the northern section of the industry.

"2. It is hereby ordered that an Inter-Code committee of seven (7) persons shall be appointed by the Administrator, three (3) of whom shall be chosen from the Cotton Garment Industry, with the advice of the chairman of its Code Authority, and three (3) of whom shall be chosen from the Men's Clothing Industry, with the advice of the chairman of its Code Authority, and the seventh (7th) member shall be chairman of the said committee. The committee is hereby authorized to administer and supervise enforcement in respect of cotton wash suits and/or single pants. The said committee, may, on its own initiative, or upon reference by either Code Authority concerned, recommend to the Administrator, changes in maximum hours or differentials or changes in the minimum wage to be paid employees engaged in the production of single pants and/or cotton wash suits, and issue interpretations of this order with respect to such garments. All questions arising from the operation of this Order shall be referred to the Inter-Code Committee for determination. Interpretations or determinations made by the said committee shall be subject to an appeal to the Administrator.

"On or before June 30, 1934, the Inter-Code Committee shall report to the two Code Authorities concerned, and to the Administrator, as to whether these provisions should be changed or modified by the Administrator.

"The Administrator shall arrange with the two Code Authorities for an equitable basis of contribution to cover the necessary expenditures for administration by the Inter-Code Committee."(*)

(*) Executive Order approving Amendment No. 2 to Men's Clothing Code and Amendment No. 1 to the Cotton Garment Code, dated December 18, 1933. Page 3 of printed copy of amendments.

CHAPTER IV

THE INTER-CODE COMMITTEE

1. Appointment of the Committee.

Pursuant to the conditions of the Amendment, December 18, 1933, revising the Cotton Garment and Men's Clothing Codes, the Inter-Code Committee was officially appointed through the issuance of Order No. 118-10 and 15-5, dated January 5, 1934.

In order to make it possible for the Committee to begin functioning at once, temporary appointments were made with Mr. Gitchell as Government representative and chairman. This Committee included seven members, three of whom were selected from the Cotton Garment Industry, three from the Men's Clothing Industry, and the seventh a Government representative who was made Chairman, and met first on January 5, 1934.

The following temporary appointments were made:

Oscar Berman, of the Crown Overall Company,
Cincinnati, Ohio
Representing the Cotton Garment Industry

Ralph Hunter, of Hall, Hartwell & Company,
Troy, New York
Representing the Cotton Garment Industry

Victor Rafkin, of Rafkin Brothers,
New York, N. Y.
Representing the Men's Clothing Industry

Elmer Ward, of Goodall Company,
New York, N. Y.
Representing the Men's Clothing Industry

I. Welrich, of the New York Knee Pants Company,
New York, N. Y.
Representing the Men's Clothing Industry

B. H. Gitchell, Deputy Administrator,
to act as Chairman

Lester Rosenbaum, of the Kalamazoo Pants Company,
Kalamazoo, Michigan
Representing the Cotton Garment Industry

Because of the necessity for a sub-committee and the need of further representation of the manufacturers of wash suits, there were certain changes in the Committee, and this new Committee began to function as early as January 18, 1934. On February 5, 1934, entire new personnel was officially appointed on the Inter-Code Committee, with Mr. Godfrey Bloch as Chairman to succeed Mr. Gitchell. The following men were appointed on this new Committee:

J. O. Fly, of the Fly Manufacturing Company,
Shelbyville, Tennessee,
representing the Cotton Garment Industry,
to succeed Lester Rosenbaum

E. C. Van Winkle, of Sweet-Orr & Company,
New York City,
representing the Cotton Garment Industry,
to succeed Oscar Berman

R. Smith Payne,
representing the Cotton Garment Industry,
to succeed Ralph Hunter

Morris Greenberg,
representing the Men's Clothing Industry,
to succeed Victor Rafkin

Godfrey Bloch, as Chairman,
to succeed B. H. Gitchell

II. Recommendations of the Committee.

The findings of these committees are briefly stated in the following two documents:

"Memorandum "January 18, 1934.

"After the adjournment of the Inter-Code Committee on Pants and Men's Wash Suits, it was thought best to call a special smaller Committee to handle the Men's Wash Suits. The reason for this being that there was only one of the Committee who was vitally interested in the question of Wash Suits, namely, Mr. Ward of the Men's Clothing Code Authority. Therefore, the Chairman of the Cotton Garment Code Authority was requested to have one or two men from the Men's Wash Suit and Work Suit Industry to meet with Mr. Ward in the Administrator's office on January 15, 1934.

"Mr. Rosenbloom of Baltimore, and Mr. Urban of Terre Haute, Indiana, met with Assistant Deputy Administrator Payne and Mr. Ward for the meeting.

"In the interim between January 5 and 15, our experience in the Administrator's office had taught us that a smaller committee might be able to function better as an Inter-Code Committee on Pants so a thought was advanced that a Committee of Mr. Godfrey Bloch, Mr. Greenberg and Mr. Payne might be able to work faster in bringing the matter to a conclusion. However, the technique of substituting this Committee was so ramified that it was thought best to request the Cotton Garment Code Authority and the Men's Clothing Code Authority to reduce their representation by one man and substituting Mr. Greenberg on the Men's Clothing Code Authority and Mr.

Payne on the Cotton Garment Code Authority to assist Mr. Woolrich and Mr. Ward and Mr. Van Winkle and Mr. Fly who had replaced Mr. Rosenbaum and Mr. Berman on the original Committee.

"Mr. Bloch took the chair in place of Mr. Gitchell and will act as Chairman.

"To date the Committee as above outlined has called a meeting for Monday, January 22, 1934, at 2 p.m. in room 1370, 1440 Broadway, New York City.

"Mr. Bloch and Mr. Greenberg and Mr. Payne will, in the meantime, gather all data pertaining to the question involved and present their findings at this meeting in hopes that a satisfactory conclusion may be reached.

R. S. Payne" (*)

A. Report of Meetings and Votes on Fabric Classification

"This report is to cover inter-Code questions with respect to pants as related to the Code of the Cotton Garment Industry and the Men's Clothing Code.

"Under Executive Order approved December 18, 1933, the Inter-Code Committee was established 'to administer and supervise enforcement in respect of cotton wash suits and/or single pants'. Under the Order 'all questions arising from the operation of the Order shall be referred to the Inter-Code Committee for determination'.

"Under its duties the Committee convened January 5, 1934, to classify pants under the Order.

"The Administrator's letter transmitting the above order refers to the conclusion of the Administrator in part as follows:

'1. Work pants as included in Sub-division 1; Paragraph A, of Article II, covers a field of merchandise not in competition with the Men's Clothing Industry, and can be defined for the purposes of administration.

'2. There are lines of one hundred per cent (100%) cotton trousers manufactured in work clothing factories which are used in substantial quantities for sport and dress occasions and do constitute an important factor of competition with trousers now made as a part of the Men's Clothing Industry. Manufacturers should be allowed to continue manufacture under both Codes, with an increased minimum in the Cotton Garment Code which will, in effect, operate to reduce the difference in minima between the two Codes.'

(*) Memorandum re Inter-Code Committee on Pants and Men's Wash Suits, 1/15/34 meeting, signed by R. S. Payne, dated January 18, 1934. (Cotton Garment Code Files.)

"It was held to be the function of the Committee to classify single pants as far as possible between 'work pants, not in competition with the Men's Clothing Industry' and 'cotton trousers used in substantial quantities for sport and dress occasions which do constitute an important factor of competition with trousers made as part of the Men's Clothing Industry', in order that a condition approaching as far as possible to fair competition be established.

"The problem of classifying was approached primarily from the standpoint of fabric and the vote taken on January 5, 1934, is recorded herewith.

"On January 22, 23, 24, 1934 a committee consisting of the following newly appointed personnel met: Mr. Rafkin, Mr. Wolrich, Mr. Ward, Mr. Van Winkle, Mr. Fly, Mr. Payne, Mr. Bloch, and balloted at intervals on each of three days. The conclusions of that Committee with respect to classification are set forth as follows:

"Pants made under the Cotton Garment Code work clothing provisions shall be confined to cloths made entirely from carded all cotton yarns without silk, rayon or mercerized yarn decorations. All cloths classified as eligible are so classified with the above limitation.

"The following were unanimously voted as eligible for classification as work clothing for 30-32½ cents rate both at the final meeting and previously:

Denims, plain or printed or woven (including those known as Hickory or express stripes)
Moleskins
Pin checks
Carded Seersuckers
Coverts
Cottonades, but excluding goods known in the trade as cotton worsted
Piece-Dyed Twills, Drills and Ducks (excepting bleached whites)
Corduroys, drab, seal and navy blue.

"At the final meeting it was voted that the following be made only at the rate of 34 cents in the South, and 37 cents per hour in the North. Bleached goods with colored yarn, woven stripe, vote five to one; goods bleached and printed, vote four to two.

"The vote was evenly divided three to three on the following items but unanimous consent was given that the chairman could cast his deciding vote subsequently and so announce at the conclusion of the Committee.

Bleached white drills, twills, ducks, and Carded Cotton Whipcord

Corduroys, other than drabs, seal, brown and navy blue.

"Inasmuch as the Committee of January 5, unanimously voted that all of the other shades of corduroy should be put in the 34-37 cents per hour category, the chairman's vote is cast to reaffirm what previously had been agreed upon.

"With respect to the other two items, the chairman's vote is cast to put these goods in the 30-32½ cents per hour class.

"No other clothes were requested by any other committeemen to be classed in the 30-32½ cents category it being understood that all cloths not mentioned were to be put in the 34-37 cents category."(*)

III The Men's Wash Suit Problem.

A. Protest of New Orleans Firms.

While the Inter-Code Committee devoted practically all of their efforts to the pants problem, this wash suit altercation was handled by the Administration in a different way. Immediately after the publication of the Executive Order of December 18, 1933, the New Orleans group, the Men's Wash Suit Manufacturers Association, sent to General Johnson, under date of December 27, 1933, a letter of protest and request for a stay of this Order, the principal arguments of which were as follows:

"Protest of Men's Wash Suit Manufacturers National Association against Executive Order of December 18, 1933, and Request for a Stay of its Application.

Members--Haspel Brothers, Inc.)
Godchaux Clothing Co.)
Famous-Sternberg Co.) New Orleans, La.
Hirsch & Baar)
A. Solomon)

"This Association manufacturers the great bulk of men's cotton wash suits produced in this country, and protests against this Order transferring the manufacture of men's cotton wash suits, when made by clothing manufacturers, to the Men's Clothing Code.

"It compels them to pay minimum wages of 85¢ per hour for cutters and 60¢ for off-pressers, as against a minimum wage of 34¢, without distinction as to the classes of labor for manufacturers of cotton wash suits when made in work clothing factories--same services must be performed--and same class of labor used. These manufacturers will pay 51¢ per hour minimum more for cutters, and 26¢ more for off-pressers than their direct competitors manufacturing an identical garment under the Cotton Garment Code. Cotton Garment Code has 40 hour week, vs. 36 hour; 30¢ per hour minimum vs. $13.00 per week; learners vs. no learners allowed; 10% inefficients with no minimum vs. 5% inefficients with 70% minimum.

(*) Memorandum dated January 30, 1934, to Byres H. Gitchell, Deputy Administrator, from Godfrey Bloch, Special Administrator. (Cotton Garment Code files.)

This distinction is based, not on the article itself nor conditions and methods surrounding its manufacture, but on the fact that something else is manufactured under the same roof, and these manufacturers are discriminated against because they make the manufacture of these garments their principal rather than their partial activity.

Claims that the New Orleans group never agreed to (letter of transmittal mentions agreement between New Orleans manufacturers and Men's Clothing Code Authority) any such distinction as is made in this Order. Asks for an immediate stay. (*)

Then, on January 11, 1934, in the following letter, this Association requested another hearing on this question:

"Hon. Hugh S. Johnson
N.R.A. Administrator
Washington, D. C.

"Dear Sir:

"Request for hearing by Men's Wash Suit Manufacturers National Association under terms of the Executive Order of July 15, 1933.

"On benalf of the above Association we respectfully request a hearing on the Executive Order of December 18, 1933, transferring manufacturers of men's cotton wash suits not engaged in the manufacture of work clothing to the Men's Clothing Code, and leaving manufacturers of such clothing who also manufacture work clothing subject to the Cotton Garment Code.

"It is respectfully submitted that this Association nor its representatives neither participated in the establishment of nor consented to the Executive Order involved.

"The record clearly shows that the Executive Order proposed upon which notice was given and hearings held on November 27, 1933, contemplated the transfer of all manufacturers of cotton wash suits to the jurisdiction of the Men's Clothing Code (R. Page 2, 3, 6, 9, 44, 53, and 54). No notice was given then nor thereafter prior to the actual signing of the Executive Order of December 18, 1933, of any proposal to divide the manufacturers of cotton wash suits into two groups with different standards set up for the manufacture of identical garments manufactured by the same methods and in direct competition with each other. Of such competition, General Johnson in his report on the Cotton Garment Code (Page VII) makes the following observation.

(*) Letter dated December 27, 1933, from Men's Wash Suit Manufacturers National Association to General Johnson.

" 'Manifestly also, employers could not be expected to continue under the Men's Clothing Code, if other employers in direct competition and producing the same articles were permitted to operate under a code which was more favorable to them. That would be unfair competition of a most vicious character.'

"If the competition there referred to by General Johnson may be characterized as 'vicious', what may not with propriety be said with reference to the unfair competition created by this Executive Order?

"We attach herewith as a part of this request for a hearing, copy of our protest filed with you under date of December 27, 1933, which sets forth in detail the discriminatory conditions created by the Executive Order involved.

"The extent of the unfair competition which our manufacturers would be compelled to face from manufacturers of cotton wash suits under the Cotton Garment Code is indicated by the statement of Mr. Hunter of the I.A.C.M. (R.Page 14) wherein he estimates that manufacturers of work clothing produce at least $1,000,000 worth of cotton wash suits in the last year. The garments chiefly invovled are seersucker suits and they are so identical that it is impossible for even the trained eye to determine whether or not a particular garment has been manufactured in a work clothing shop or a shop engaged exclusively in the manufacture of men's wash suits. Naturally, all such suits come in direct competition with each other. If granted a hearing we offer to prove that the Executive Order of December 18, 1933, is grossly unjust and prejudicial to the manufacturers composing this Association in requiring of them higher standards in the manufacture of an identical garment than is provided for their direct competitors in the Cotton Garment Code. We have been advised that unless our manufacturers can be relieved from this situation it will be necessary for them to shut down their plants, thus causing large losses of invested capital and unemployment to approximately 2,000 employees.

"Very respectfully yours,
(signed) "J. Bruce Kremer
"Guilford S. Jameson
"Attorneys for Men's Wash Suit Mfrs. Nat'l Ass'n
"Haspel Brothers, Inc.
"Godchaux Clothing Co.
"Famous-Sternberg Co.
"Hirsch & Baar
"A. Solomon"

(*) Letter dated January 11, 1934, from Men's Wash Suit Manufacturers National Association to Gen. Hugh S. Johnson. (Cotton Garment Files, under Code Amendment #1.)

B. Investigation by Deputy Administrator Morris Greenberg.

As a result of numerous conferences and negotiations between the Administration, the Men's Clothing Code Authority, and the petitioners immediately subsequent to the receipt of these letters, it was decided that an investigation of these plants and their particular problems was desirable, and Special Deputy Administrator Morris Greenberg was sent to New Orleans for that purpose. After nearly a week, Deputy Greenberg arranged a satisfactory solution, and the following agreement was drawn up on January 22, 1934, and signed by this New Orleans group:.

"Roosevelt Hotel,
New Orleans, La.

"Dear Major Gitchell:

"I am enclosing two (2) signed copies of the Agreement I finally reached here, together with a signed copy of a covering letter.

"As you will see, these papers definitely bind these parties as soon as you and the Code Authority sign the Agreement. Will you please arrange to have one of these copies signed by yourself and Mr. Bell, and return it to Mr. Edward Haspel, 912 Union Bldg., New Orleans.

"Before I finally agreed to the 30% and the form of this Agreement, and the method of signing etc. - I took the liberty of phoning Mr. Drechsler, and this has his approval.

"This was finally completed at about 11:30 tonight--too late to catch the 10:15 train to Dallas, so I go by plane tomorrow and will be in Dallas by Tuesday P.M.

"I hope this solution of the New Orleans situation meets with your approval. I think it is fair and meets the situation.

"With kindest personal regards,

"Morris Greenberg"(*)

C. Agreements with New Orleans Firms.

(*) Letter undated, in Men's Clothing Code Files, under Employment, Wages and Hour Exemptions, Goddchaux Clothing, Haspel Brothers, Sternberg, Etc.

"New Orleans, Louisiana
January 22, 1934.

"The Code Authority,
Men's Clothing Industry,
New York City.

"Gentlemen:

"We are enclosing herewith the tentative agreement entered into between Mr. Morris Greenberg, Assistant to the Deputy Administrator, and ourselves in reference to interpretations and exceptions to the Men's Clothing Code as applicable to ourselves.

"We agree to the terms hereof, and they shall be in full effect and binding upon us when and as soon as they have been approved by you and the Deputy Administrator, Mr. Gitchell, and we have received notification thereof.

"Yours very truly,
GODCHAUX CLOTHING COMPANY, LTD.
By (Signed) LEON GODCHAUX, PRES.
HASPEL BROTHERS, INC.
By (Signed) JOS. HASPEL, PRESIDENT
FAMOUS-STERNBERG, INC.
By (Signed) JESSE S. ROSENFELD, TREAS.
HIRSCH & BARR
By (Signed) PAUL HIRSCH
(Signed) A. SOLOMON "(*)

"WHEREAS the parties hereinafter named have filed a protest against the placing of wash suits of one hundred (100%) per cent cotton content in the Men's Clothing Code and have otherwise protested against the inclusion of any wash suits in the Men's Clothing Code, and

"WHEREAS it now appears that there is a solution of the problem that will do substantial justice to all parties without working hardship or discrimination against any,

"NOW THEREFORE the undersigned:

LEON GODCHAUX CLOTHING COMPANY, LTD.,
HASPEL BROTHERS, INC.,
FAMOUS-STERNBERG, INC.,
HIRSCH & BARR, a partnership, and
A. SOLOMON,

(*) Letter dated January 22, 1934, in Men's Clothing Code Files, under Employment, Wages and Hour Exemptions, Godchaux Clothing, Haspel Bros., Sternberg, Etc.

all of New Orleans, Louisiana, and hereinafter designated as Manufacturers, and Byres H. Gitchell, representing the Administrator of the National Recovery Administration, and George Bell, representing the Code Authority for the Men's Clothing Industry, have agreed and do hereby agree to the following interpretations and exceptions to the Men's Clothing Code and amendments and regulations in connection therewith as applying to the said Manufacturers hereinabove named, to-wit:

"(a) During the regular operating season the said manufacturers will be permitted to operate four (4) hours overtime per week at normal rates.

"(b) All wages, as set forth in the Men's Clothing Code and amendments thereto, shall be maintained.

"(c) Clause II (b) is held not to apply to said manufacturers.

"(d) Each manufacturer is allowed to employ sub-standard help as provided under Article II, Section G, of the Men's Clothing Code, as amended, up to thirty (30%) per cent of its employees, including sub-standard cutters and pressers.

"(e) Each of said manufacturers shall file its list of sub-standard employees with the Code Authority, or the proper subdivision thereof, and it shall be revised semi-monthly by the withdrawal of some names and the inclusion of others.

"(f) In view of the confusion that might result from the employment of certain employees a portion of the time on linen and at other times on cotton, and in order to provide for a uniform minimum for all employees, each manufacturer shall arrive at a proportional intermediate minimum on the basis of the proportion of cotton versus linen actually manufactured according to its records for the previous year, which said minimum so determined shall be maintained until such time as the said manufacturer is able to determine accurately that the proportion existing for the pervious year will not be applicable to the current year, at which time the said minimum shall be adjusted in accordance with the information so obtained.

In submitting all payrolls to the Code Authority special mention shall be made of the intermediate minimum used.

"This agreement shall be binding and effective immediately upon the signing hereof by all parties, and a certificate of compliance will be signed and filed and labels as provided by Article V of the Men's Clothing Code will be furn-

ished to said Manufacturers for all merchandise theretofore manufactured and presently held in stock by said manufacturers.

"LEON GODCHAUX CLOTHING COMPANY, LTD.
By (Signed) Leon Godchaux, Jr., Pres.
"HASPEL BROTHERS, INC.
By (Signed) Jos. Haspel, Pres.
"FAMOUS-STERNBERG, INC.
By (Signed) Jesse S. Rosenfeld, Treas.
"HIRSCH & BARR
By (Signed) Paul Hirsch
A. Solomon
(Signed) A. SOLOMON
M. GREENBERG"

Apparently the Men's Clothing Code Authority never actually signed a copy of this agreement, but in the following letter dated February 3, 1934, from Executive Director George L. Bell to Leon Godchaux, they did confirm all articles of said agreement, except the one respecting overtime.

On February 2, 1934, Deputy Administrator Gitchell wrote the following letter to Mr. Edward Haspel, advising him to request this overtime from the Administration:

"This will confirm our conversation today in conference between yourself, Mr. Leon Godchaux, Mr. George Bell, Mr. Morris Greenberg, and the writer in respect to overtime for the New Orleans manufacturers whom you represent.

"If you will submit an application in proper form, and the same meets with the approval of Mr. Bell as Director for the Men's Clothing Code Authority, I will be very glad to recommend an administrative order be issued by the National Recovery Administration allowing overtime four (4) hours per week at regular rates of compensation. This assurance based upon investigation made by Mr. Morris Greenberg on the ground.

"This Administrative Order you understand, requires approval as to form and content by the Legal Division and Advisory Boards. I know of no reason why we should expect a refusal by the administration to act favorably on this recommendation." (*)

(*) Letter dated February 2, 1934, from Byres Gitchell to Edward Haspel. (Men's Clothing Code Files, under Employment, Wages and Hours Exemptions, Godchaux Clothing Co., Haspel Bros., Etc.)

The letter from George L. Bell, Executive Director, Men's Clothing Code Authority, to Leon Godchaux, mentioned above, is as follows:

"Mr. Morris Greenberg, an assistant to B. H. Gitchell, Deputy Administrator of the N.R.A., was sent to New Orleans to make an investigation in behalf of our Code Authority and Mr. Gitchell, of the shops of

Leon Godchaux Clothing Company, Ltd.
Hasgol Brothers, Inc.
Famous-Sternberg, Inc.
Hirsch & Barr, a partnership, and
A. Solomon

"Mr. Greenberg has made a brief written report, and on his return from New Orleans made a lengthy oral report of his findings.

"Based on Mr. Greenberg's findings, and his recommendations, the Code Authority has determined that in all the different shops the provisions of Article II, paragraph (b) have been substantially complied with. This will serve as confirmation of my oral statement to you, that this action has been taken in accordance with the provision contained in Article II, paragraph (d).

"Mr. Greenberg also made an investigation in connection with your application to employ in excess of five per cent (5%) of excepted persons, under the provisions of Amendment #1 to the Code of Fair Competition for the Men's Clothing Industry, as set forth in clause (d) of said Amendment, adding a new paragraph (g) to Article II of said Code. The Code Authority, acting upon the findings and recommendations of Mr. Greenberg, has ruled that the above shops shall be allowed to employ such excepted persons to a number not to exceed thirty per cent (30%) of the total number of employees in each of the respective shops or plants named above.

"Also acting upon Mr. Greenberg's findings and recommendations, the Code Authority has determined that your proposed method of fixing the minimum rates of pay for employees who are working a portion of their time on linen, and other times on cotton, is fair and equitable. We quote from the statement signed by the various firms the following section of this method:

"'**in order to provide for a uniform minimum for all employees, each manufacturer shall arrive at a proportional intermediate minimum on the basis of the proportion of cotton versus linen actually manufactured according to its records for the previous year, which

said minimum so determined shall be maintained until such time as the said manufacturer is able to determine accurately that the proportion existing for the previous year will not be applicable to the current year, at which time the said minimum shall be adjusted in accordance with the information so obtained. In submitting all payrolls to the Code Authority special mention shall be made of the intermediate minimum used.'

"With respect to your petition for permission to operate an extra four hours overtime per week, this cannot be acted upon by our Code Authority, as no provision is made in the Code giving the Code Authority such powers. Any relief on this matter must be secured by an administrative order from the N.R.A.

"Of course, it is our understanding that all the firms named above intend to sign certificates of compliance and observe all requirements of the Code of Fair Competition for the Men's Clothing Industry. Upon signing such certificates of compliance, all firms will be entitled to labels as provided in Article V of the Code, and we understand that all garments heretofore manufactured and presently held in stock by the above firms will be labeled, as well as garments manufactured in the future."(*)

On February 3, 1934, Mr. Bell wrote the following letter to Deputy Administrator Gitchell, giving the Code Authority's approval to this requested overtime, if the N.R.A. saw fit to allow it:

"Confirming our conversation yesterday, I wish to state that the Code Authority has determined that it has no power to grant to the petitioned Men's Clothing Manufacturers of New Orleans, Louisiana, the privilege of working any extra number of hours per week. The powers granted to our Code Authority under Article IV of our Code to give such permission is limited to 'Tailoring to the Trade and manufacturers of uniforms.' I understand that you concur with our interpretation on this point.

"Accordingly, any relief granted the petitioners must come as a result of the Administrative Order from the N.R.A. We have no objection to your granting permission to operate overtime during a reasonable period, but would strongly urge that the amount of such overtime should not exceed four hours per week."(**)

(*) Letter dated February 3,1934, from George L. Bell, Exec.Director, M.C.C.A., to Leon Godchaux. (Men's Clothing Code files, under Employment, Wages and Hours Exemptions,Godchaux Clothing Co.,Haspel Bros. Etc.)

(**)Letter dated February 3, 1934,from George L. Bell, Exec. Director, M.C.C.A., to Byres H. Gitchell, Deputy Administrator,(Men's Clothing Code files, under Employment,Wages and Hours Exemptions,Godchaux Clothing, Etc.)

Under date of February 2, 1934, Mr. Edward Haspel, as attorney for the New Orleans firms, filed the following petition requesting their four (4) hours weekly overtime:

"The undersigned, as attorney for Leon Godchaux Clothing Company, Limited, Haspel Brothers, Incorporated, Famous - Sternberg, Incorporated, Hirsch and Baar, a partnership, and A. Solomon, hereby submits an application for an allowance of overtime of four (4) hours per week at regular rates of compensation during the regular operating season for the following reasons, to wit:

"1. Should the above named manufacturers operate under the Men's Clothing Code, they will be in competition with manufacturers of cotton wash suits operating under the Cotton Garment Code providing for a maximum of forty (40) hours per week.

"2. Prior to the enactment of the N.I.R.A., said manufacturers were accustomed to operate an average of more than fifty-eight (58) hours per week, and in order to maintain production is line with prior years at thirty-six (36) hours will have to increase the number of employees to a point where, because of a scarcity of labor in this particular market, it will be impossible for them to obtain sufficient help.

"3. There is no unemployment in the industry and no market from which the above named manufacturers can draw additional help, and the amount of work they presently have on hand will justify your granting them the relief requested.

"In our conference today these matters were all discussed with you, Mr. George Bell, Mr. Morris Greenberg, and Mr. Leon Godchaux, when we went into some detail in connection with the points hereinabove set forth.

"I therefore respectfully urge that you recommend an administrative order granting to the above named manufacturers the right to operate four (4) hours per week overtime at regular rates of compensation."(*)

D. Order No. 15-8--Hours Exemption to these Manufacturers.

Therefore, on February 23, 1934, the following Administrative Order (No. 15-8) granting this overtime, was duly approved and signed:

(*) Letter dated February 2, 1934, to Byres H. Gitchell, Deputy Administrator, from Edward Haspel, Attorney. (Men's Clothing Code Files, under Employment, Hours and Wages Exemptions, Godchaux Clothing Co., Haspel Brothers, Etc.)

"Exemption from Article IV of the Code of Fair Competition for the Men's Clothing Industry.

Order No. 15 - 8

"The Code Authority for the Men's Clothing Industry having recommended that

Leon Godchaux Clothing Company. Ltd.
Haspel Brothers, Inc.
Famous-Sternberg, Inc.
Hirsch & Barr, a partnership, and
A. Solomon,

all of New Orleans, Louisiana, be allowed four (4) hours per week over the weekly limitations set forth in Article IV of the Code of Fair Competition for the Men's Clothing Industry, at normal rates of pay, and good and sufficient cause having been shown therefor, and approval of said recommendation of the Code Authority having been given by the Deputy:

"Now, therefore, approval is hereby given of the recommendation of the Code Authority, and said exemption is hereby granted.

"A. D. Whiteside,
Division Administrator.

"February 23, 1934.

"Approval recommended:

B. H. Gitchell,
Deputy Administrator."(*)

(*) Order No. 15-8, Men's Clothing Code Files.

CHAPTER V

AMENDMENT NO. 3 TO COTTON GARMENT CODE, MARCH 15, 1934

I. Changes in the Code as approved March 15, 1934.

The Executive Order of December 18, 1933, failed to improve to any real extent the wage and hour competitive situation on the single pants and wash suits. While some companies revised their rates to the specified 34 cents per hour in the South, and 37 cents per hour in the North, many of the cotton garment manufacturers failed to make any attempt to comply, and continued to produce these garments at the old 30 cents and 32½ cents rates. The Industry as a whole was very much dissatisfied with the December 18th amendment, and the Cotton Garment Code Authority made only a half-hearted gesture to enforce compliance.

A. Deputy Administrator Gitchell's Letter of Transmittal.

In order to speedily improve existing conditions, if possible, and after study and consideration of the Inter-Code Committee's investigations and recommendations, on February 23, 1934, Deputy Administrator Gitchell wrote the following letter of transmittal to General Johnson:

"This report is to cover inter-Code questions with respect to pants as related to the Code of the Cotton Garment Industry and the Men's Clothing Code.

"Under the Executive Order approved December 18, 1933, the Inter-Code Committee was established 'to administer and supervise enforcement in respect of cotton wash suits and/or single pants.' Under the Order 'all questions arising from the operation of the order shall be referred to the Inter-Code Committee for determination.

"Under its duties the Committee convened January 5, 1934, to classify pants under the Order.

"The Administrator's letter transmitting the above order refers to the conclusion of the Administrator in part as follows:

"'1. Work Pants as included in Subdivision 1, Paragraph A, of Article II, covers a field of merchandise not in competition with the Men's Clothing Industry, and can be defined for the purposes of administration.

"'2. There are lines of one hundred per cent (100%) cotton trousers manufactured in work clothing factories, which are used in substantial quantities for sport and dress occasions and do constitute an important factor of competition with trousers now made as a part of the Men's Clothing Industry. Manufacturers should be allowed to continue manufacture under both Codes, with an increased minimum in the Cotton Garment Code which will, in effect, operate to reduce the difference in minima between the two Codes.'

"It was held to be the function of the Committee to classify single pants as far as possible between 'work pants, not in competition with the Men's Clothing Industry' and 'cotton trousers used in substantial quantities for sport and dress occasions which do constitute an important factor of competition with trousers made as part of the Men's Clothing Industry,' in order that a condition approaching as far as possible to fair competition be established.

"The problem of classifying was approached from the standpoint of fabric and the vote taken on January 5, 1934, is recorded herewith.

"On January 22, 23, 24, 1934, a committee consisting of the following newly appointed personnel met: Mr. Rafkin, Mr. Wolrich, Mr. Ward, Mr. VanWinkle, Mr. Fly, Mr. Payne, Mr. Bloch, and balloted at intervals on each of the three days. The conclusions of that Committee with respect to classification are set forth as follows:

"Pants made under the Cotton Garment Code work clothing provisions shall be confined to cloths made entirely from carded all cotton yarns without silk, rayon or mercerized yarn decorations and containing no wool fiber. All cloths classified as eligible are so classified with the above limitation.

"The following were unanimously voted as eligible for classification as work clothing for 30 - 32½¢ rate both at the final meeting and previously:

"Denims, plain or printed or woven (including those denims known as Hickory or express stripes),
Moleskins,
Pin Checks,
Carded Seersuckers,
Coverts,
Cottonades, but excluding goods known in the trade as cotton worsteds,
Piece-Dyed Twills, Drills and Ducks (excepting bleached whites),
Corduroys, dark drab, seal brown and navy blue.

"At the final meeting it was voted that the following be made only at the rate of 34¢ per hour in the South, and 37¢ per hour in the North. Bleached goods with colored yarn woven stripe, vote five to one; goods bleached and printed, vote four to one.

"The vote was evenly divided three to three on the following items but unanimous consent was given that the chairman could cast his deciding vote subsequently and so announce as the conclusion of the Committee.

"Corduroys, other than dark drab, seal brown & navy blue, Bleached white drills, twills, ducks, and Carded Cotton Whipcord.

"Inasmuch as the Committee of January 5 unanimously voted that all of the shades of corduroy other than dark drab, seal brown and navy blue should be put in the 34 - 37¢ per hour category, the chairman's vote is cast to reaffirm what previously had been agreed upon.

"With respect to the latter two items, the chairman's vote is cast to put these goods in the 30 - 32½¢ per hour class.

"No other cloths were requested by any other committeeman to be classed in the 30 - 32½¢ category, it being understood that all cloths not mentioned were to be put in the 34 - 37½¢ category.

"The proposed administrative order submitted herewith is drafted to give effect to the conclusions of the Committee.

"While the inter-Code problem involved is very similar to that between the Cotton Garment and Dress Industries, the procedure followed differed, inasmuch as an Inter-Code Committee handled this problem, whereas a Special Administrator handled the other.

"Although the inter-Code dress problem was substantially solved in some three weeks, the Inter-Code Committee on pants and wash suits did not even convene until about three weeks after the order, and then only with temporary appointees. The necessity of committeemen arranging their schedules to travel great distances has made the procedure cumbersome. Furthermore, the Cotton Garment Code Authority at the last committee meeting specifically requested a more specific order and more workable procedure. Accordingly, it is recommended that the Inter-Code Committee's functions be turned over to a Special Administrator. The proposed order is drafted to effect this change also and is recommended for your approval." (*)

B. Different Wage Rates for Different Fabrics Approved.

On March 15, 1934, the following amendment to the Cotton Garment Code, Amendment No. 3, was officially approved.

"Schedule 'A'

"The Executive Order of December 18, 1933, amending the Code of Fair Competition for the Cotton Garment Industry, is amended as follows: Conditions Numbers 1 and 2 of the

(*) Deputy's Report to the Administrator, dated February 26, 1934, attached to Amendment No. 3 to Cotton Garment Code.

said Order are abrogated, and the following substituted therefor:

"1. No manufacturing employee engaged in the production of men's and boys' pants when made of (a) corduroy, other than those shades set forth below, or (b) cloths other than those set forth below, whether or not made in work clothing factories, shall be paid at less than the rate of thirty-four cents (34¢) per hour in the southern section of the Industry, or less than thirty-seven cents (37¢) per hour in the northern section of the Industry, as such sections are defined in the Cotton Garment Code and amendments thereto.

"No manufacturing employee engaged in the production of men's and boys' pants made in work clothing factories in conjunction with work clothing or work pants, when made of 100% cotton content and when made entirely from carded cotton yarns without synthetic yarn, silk or mercerized yarn decoration, and when such pants are made of (a) denims, plain or printed or woven, including those denims known as Hickory or express stripes, or (b) moleskins, or (c) pin checks, or (d) carded seersuckers, or (e) coverts, or (f) plain dyed or bleached ducks, twills or drills, or (g) cottonades, except cotton worsteds, or (h) dark drab, seal brown or navy blue corduroys, or (i) heavy carded cotton whipcords, shall be paid less than at the rate of thirty cents (30¢) per hour in the southern section of the Industry, or less than thirty-two and one-half cents (32½¢) per hour in the northern section of the Industry, as such sections are defined in the Cotton Garment Code and amendments thereto."

C. Special Administrator Succeeding Inter-Code Committee.

"2. The Inter-Code Committee provided for in Condition Number 2 of the Executive Order of December 18, 1933, amending the Cotton Garment Code, is hereby terminated and all powers and duties delegated to the Committee in said Condition are hereby transferred to the Special Administrator hereinafter provided. It is hereby ordered that a Special Administrator shall be designated to serve until July 1, 1934, who shall administer and supervise enforcement in respect of cotton wash suits of 100% cotton content and/or single pants, shall determine all questions in respect of the appropriate minimum wage to be paid by any member of the Industry pursuant to this Order, shall make interpretations of the provisions of this Order, shall have the power to add to, alter, or reclassify any of the definitions or classes of materials set forth in this Order, and shall determine all questions arising from the operation of this Order. His determination and findings shall be final, and pending an appeal to the Administrator shall be binding until disapproved.

"The Special Administrator shall make a survey and study of the Pants Industry, and shall prepare a report and recommendations prior to June 30, 1934, with respect to changes in maximum hours, differentials, or changes in the minimum wage to be paid employees engaged in the production of men's and boys' pants, and with respect to amendments to the Cotton Garment Code concerning definitions, wage rates and/or maximum hours.

"3. No manufacturing employee engaged in the production of men's wash suits of 100% cotton content when made in work clothing factories in conjunction with work clothing shall be paid at less than the rate of thirty-four cents (34¢) per hour when employed in the southern section of the Industry, or less than thirty-seven cents (37¢) per hour when employed in the northern section of the Industry, as such sections are defined in the Cotton Garment Code and amendments thereto. The Special Administrator hereinabove provided for shall have the same powers and duties with respect to such cotton wash suits as are delegated to him by this Order with respect to men's and boys' pants." (*)

In accordance with condition No. 2 of the new amendment, terminating the Inter-Code Committee and ordering the designation of a Special Administrator to administer, supervise, and study the production of these particular garments, Deputy Administrator Mitchell, in a letter to General Johnson, dated March 17, 1934, recommended the appointment of Mr. Godfrey Bloch as such Special Administrator, and Administrative Order No. 118-37, appointing Mr. Bloch, was duly signed on March 28, 1934, calling for his report and recommendations prior to June 30, 1934.

II. Effects of Amendment No. 3 to Cotton Garment Code.

A. Fabric Classification Proved Impractical.

It soon became apparent that this further attempt to settle the question by classifications of fabrics was not solving the problem in any manner. Manufacturers found it impossible to pay higher wages on certain bolts of cloth than on others, when both were worked on by the same operators. At least, those who attempted this found it so, for, as before, most of the plants made no effort to differentiate between different fabrics and continued paying the lower wage scales on all garments.

All evidence produced pointed to the fact that probably the equalization of wages in the two Codes was the only way in which a satisfactory solution could be achieved.

Numerous complaints regarding the new rulings were filed with the Administration and the Code Authorities concerned, and once again no real effort was made by the Industry to comply with the provisions of this amendment.

(*) Amendment No. 3 to the Cotton Garment Code.

B. Protests from Southern Manufacturers.

The Southern Garment Manufacturers Association's protest and request for a stay, dated March 24, 1934, as shown by the following copies of the correspondence on the matter, was a typical example of how many members of the Industry felt about this latest amendment.

"A resolution, passed by the Board of Directors of the Southern Garment Manufacturers Association in a special session in Atlanta, Georgia on Saturday, March 24, was sent you Wednesday, March 28, from the office of this Association.

"This Association has at present a membership of 267 Garment Manufacturers in the South and has affiliated with the Southwestern Garment Manufacturers Association made up of 48 members in the Southwest. Let it be understood that all of these manufacturers have tried from the first to comply with the word and spirit of the Industrial Recovery Act. We have formed ourselves into an association the principal purpose of which is to promote and further industrial recovery. It is a fact that our own Code Authority located in New York City, even though it is made up almost entirely of Northern and Eastern Manufacturers, has said that the South is far ahead of the North and East in Code compliance, and by comparison has been almost free from violation. Let it also be understood that we are organized for out mutual protection, and since we are almost entirely without representation on our own Code Authority, we have perhaps given more time and study to the welfare of industry in our section than any other section or group.

"The resolution which was sent to you set forth at length the very unfair situation which the Administration is seeking to create and put upon the Southern Manufacturers. This situation has been brought about by the ruling and decisions of a Committee which was entirely unrepresentative of the industry and which we feel violated the oldest principle of the American people who stand for Government only.

"Decisions such as the one referred to can not help but break down and destroy our faith in the Recovery Act and the Recovery Administration. Regardless of the legal status and penalties attached to the Recovery Law, it can not succeed without the proper cooperation from all who are affected. Decisions which are unfair to any one section of any industry can not be conducive to this necessary cooperation.

"We are writing you because so far we have felt we are governed by adequate representation and because you are our representative. You have, I am sure, the ultimate well-being of your section in mind. We ask that after you have acquainted yourself with the facts of this case that you

take immediate steps to see that the situation is corrected, and that a similar situation is not allowed to again occur. The South must not be allowed to be forced entirely off the industrial horizon." (*)

"Whereas, The Cotton Pants Industry in the South, consisting of 214 pants manufacturers operating 28,423 machines, located in 14 southern states, has been unduly discriminated against by the National Recovery Administration in its decision placing under a prohibitive wage scale the manufacture of pants of certain cotton fabrics, resulting in forcing the cost of such garment beyond the purchasing power of the average working man, inasmuch as working people are unable to afford wool or semi-wool pants, thus ignoring entirely the interest of those consumers deserving the greatest consideration, namely, the working man and the farmer; and

"Whereas, The said all cotton pants manufacturers representing 93% of the industry have entered into contracts to sell the retail trade hundreds of thousands of dozens of these cotton pants at the wage rates heretofore in effect under the Cotton Garment Code, thus forcing confiscatory costs upon the southern pants manufacturer; and

"Whereas, Although the southern manufacturers presented to the Inter-Code Committee for the Cotton Garment Industry and the Clothing Industry voluminous and uncontroverted evidence of the inescapable fact that all cotton content pants consisting of all cotton fabrics known as printed and woven twills, drills and ducks and similar fabrics were manufactured, sold and worn as cotton work pants; and

"Whereas, the Inter-Code Committee responsible for the decision and controversy was not representative of the Cotton Pants Industry as a whole, only one member thereof being a southern pants manufacturer; and

"Whereas, There can be no justification for charging a higher wage in the manufacture of cotton pants than in the production of overalls, dress shirts, work shirts, cotton dresses, which are allowed to be made at basic rates named in the original Cotton Garment Code, and which contain no more cotton than do the above mentioned fabrics used in the manufacture of cotton pants; and

"Whereas, The greater volume of the southern pants manufacturer consists of those fabrics that have now been placed under the higher wage rates of 34 cents per hour, thus making it impossible for the manufacturer to segregate his labor in the factory in such a way as to pay each worker the wage rate

(*) Letter dated April 2, 1934, to Senator Kenneth McKellar, from T. P. Kennedy, Jr., of O'Bryan Bros., Inc., Nashville, Tenn. (Cotton Garment Code Files.)

called for according to the classification of the garments, and further creating a condition whereby one manufacturer of pants will consider a piece of cloth under the 30-cent rate and another manufacturer will consider the same piece of cloth under the 34-cent rate, thus creating unbounded confusion among the workers and the management, leading to labor difficulties; and

"Whereas, The Special Administrator placed in charge of this matter, and other Recovery Administration officials were and are unable to differentiate between the work pant consisting of the fabric they have classified as taking the 34-cent rate and the fabrics they have classified as taking the 30-cent rate, thus indicating the uncertainty of the position taken by the National Recovery Administration:

"Be it resolved by the Southern Garment Manufacturers Association, Inc., representing and speaking for the 214 manufacturers of cotton pants in the southern states, operating 28,423 machines, that the decision hereinbefore referred to be protested to the Cotton Garment Code Authority, the National Recovery Administration and the Senators and Representatives in Congress from the 14 Southern states, as being wholly unfair and discriminatory against these manufacturers representing 93% of the industry as well as to the consumer of these pants, the working classes of the people and the farmers whom the Recovery Administration is endeavoring to aid; and

"Be it further resolved that the Cotton Garment Code Authority be requested to secure a stay of the Order referred to, entered on March 16, 1934, modifying the related order of December 18, 1933, and that the Cotton Garment Code Authority be requested to secure a further hearing with General Hugh S. Johnson, the Recovery Administrator and allow an opportunity of placing before the Administrator such facts depicting the injustices placed upon the Southern industry and the economic hardships imposed upon the working man and the farmers consuming these cotton pants.

"Certified to be a true and correct copy of Resolution adopted by the Board of Directors of the Southern Garment Manufacturers Association, Atlanta, Georgia, March 24, 1934.

"W. Gordon McKelvey, Secretary, Southern Garment Manufacturers Association, Inc." (*)

(*) Resolution dated March 24, 1934, from the Southern Garment Manufacturers Association, Inc. (Cotton Garment Code Files.)

"I am enclosing for your consideration a letter from Mr. T. P. Kennedy, Jr., O'Bryan Brothers, Nashville, Tennessee, relative to the Southern Garment Manufacturers Association Code.

"I will appreciate it if you will advise me how I may answer his letter." (*)

"Re: Resolution of Southern Garment Manufacturers' Association protesting Administrative Order of March 15, 1934, and asking a stay of its operation.

"Your letter of April 5 enclosing a copy of the resolution above mentioned has been called to my attention.

"The resolution above mentioned relates to the classification of 'cotton wash suits and pants' and the application of appropriate wage rates to establish fair competition, which is the subject and purpose of the Administrative Order of March 15. This is a very complex and difficult problem. It involves both the Cotton Garment and the Men's Clothing Industries which have different code wage rates for garments which compete in the same markets.

"In this overlapping field of production, a failure to make accurate classifications can produce widely variable labor costs and serious injury and damage to competing units in these Industries. Unfortunately, efforts of representatives of the two Industries failed to reach practicable agreements on the subject. In these circumstances the National Recovery Administration is making a special study of the subject and is making classifications for current use.

"It is hoped operating under these current classifications will be corrective and produce cost data which will enable the Industries themselves to determine what further adjustments may be necessary to establish fair competitive conditions of operation. A final practical solution of the problem, as you will readily see, must achieve this object.

"You may be assured that until this object is attained the subject will remain one for searching study and consideration."(**)

C. Protest from Associated Pants Manufacturers.

The Associated Pants Manufacturers of America held a special meeting in Chicago on May 5, 1934, and submitted to the Administration the following resolution protesting the amendment, suggesting certain wage rates and requesting another hearing on the subject.

(*) Letter dated April 5, 1934, from Kenneth McKellar, U. S. Senate, to General Hugh S. Johnson. (Cotton Garment Code files.)

(**) Letter dated April 11, 1934, from Hugh S. Johnson, Administrator, to Senator Kenneth McKellar. (Cotton Garment Code Files.)

"A special meeting of the Associated Pants Manufacturers of America, one of the truly representative trade associations legally recognized, as such, under paragraph B of Article IX of the Code of Fair Competition of the cotton garment industry, was held at Chicago on May 5, 1934, for the purpose of considering the executive order of the National Recovery Administration, modifying the cotton garment code with respect to the pants industry, which said order was effective March 22, 1934, running to July 1, 1934. The above published order was read and offered for debate at the meeting. After full discussion thereof the following resolution was offered, approved and declared to be the unanimous resolve of the association and directed to be transmitted through the proper authorities to the Special Administrator appointed under the order above mentioned, for consideration by him:

"WHEREAS the association desires to go on record as fully approving the general aims and purposes of the order under consideration, insofar as it tends to benefit the industry as a whole, and

"WHEREAS the association after a close analysis of said order and full debate thereon, questions its enforceability for the following reasons:

"The words 'work' and 'dress', referring to pants and pant factories as used in the order, obviously refer to the use to which the garment is to be put by the consumer, and, to the factories producing a particular type of pant, respectively.

"The association asserts that the division of the industry, by classification of its products on the basis of use to which the garment is to be put by the consumer, is impractical because of varying geographical, economic and climatic conditions throughout the country, which influence the use to which the garment is to be put, and furhter because of the obvious inability of any enforcing officer to definitely ascertain, from the manufacturers' records, the proper compensation or rate of compensation to be paid for labor on any particular classification of materials, as defined in the order, or to accurately determine the proper use of the garment manufactured, or to determine its proper classification under the order. To exemplify the above objection:

"Most manufacturers make 'work' and 'dress' pants. In such factories, the workers operate indiscriminately on whatever 'work' or 'dress' materials may be then in work throughout the shop. At the end of a given payroll period a worker is entitled to compensation, but may not have earned enough to bring him up to the thirty-two and one-half cent ($32\frac{1}{2}¢$) minimum as fixed in the order. In such case it is impossible for the enforcing officer, the worker, or the manufacturer to

determine upon what basic minimum rate such compensation should be computed.

"The order attempts to classify materials on the basis of content, description, or words in common use in the trade. The history of the industry leads the association to the conclusion that new fabrics will be introduced or new or alternate uses found for present fabrics. At such time it will be necessary to obtain an executive decision on each new fabric that may be so introduced or on the change of usage of the existing fabric, which, obviously, will involve great expense, inconvenience, time and delay, and it is also apparent that such decision cannot be rendered until after a prolonged use of such fabric by the manufacturers during which time the members of the industry will have suffered many months of unfair competition.

"The association is unanimously committed to a policy of cooperation with the administration in the promulgation and enforcement of all proper orders and will assist to the fullest extent collectively and individually in the enforcement thereof.

"The association, comprising as it does, members of long experience and excellent reputation, is of the opinion, however, that the executive order as written will not accomplish the purpose for which it was drawn and as a practical matter is incapable of enforcement.

"WHEREAS further, it is not the purpose of the association to point out theoretical and practical objections to the order as written, without offering suggestions based upon the experience of its members which might lend to a proper, fair and enforceable order;

"NOW, THEREFORE, we respectfully submit that in order to obviate the necessity for the classification of garments, according to the use to which they will be put by the consumer, to remove the necessity of complicated, expensive and unnecessary bookkeeping and production records designed to prove, or attempt to reflect, which garments were made, and by what employees, and for what period of time they operated thereon during any given payroll period, and to overcome the objectionable necessity of paying two scales for various classes of materials manufactured in the same factories, and to obviate the necessity of special recurrent hearings before the Administrator concerning new fabrics and new uses of existing fabrics that will be introduced into the trade in the future, it is our recommendation that all men's and boys' pants should be manufactured on one basic minimum and that the scale recommended be thirty-five cents (35¢) per hour for the northern section of the industry and thirty-two (32¢) per hour for the southern section of the industry. This basic rate is

to apply indiscriminately in all pant factories without regard to any classification of materials used or of the use to which such garments will be put by the ultimate consumer, and in accordance with prevailing Code Regulations as to hours.

"It is the belief of the association that any division of the industry on a basis of the use to which the garment is put will be unsatisfactory, but if the single minimum rate for all pants cannot be agreed upon and no other similar proposition can be substituted, then it becomes evident that a solution on a basis of classification will be necessary. In that event the association believes that the only practical classification which will eliminate future misunderstandings and the necessity of future hearings on new fabrics and which will simplify policing of the industry is the classification of the industry on a basis of the content of the cloth that goes into the garment, i.e. pants made of one hundred per cent (100%) all cotton content on the thirty cent (30¢) rate in the south and the thirty-two and one-half cent (32½¢) rate in the north and all other trousers to be on the thirty-four cent (34¢) rate in the south and the thirty-seven cent (37¢) rate in the north. Regardless of the basis of the classification agreed upon, the association is of the opinion that for the purpose of removing and eliminating unfair competition, that the thirty-two and one-half cent (32½¢) rate fixed for the north and the thirty cent (30¢) rate fixed for the south shall apply only to those factories manufacturing pants which fall exclusively in the lower bracket of said classification and that wherever a manufacturer also makes pants which would require the higher rate (thirty-seven cents, 37¢ for the north and thirty-four cents, 34¢, for the south) he must pay labor at that rate for all garments manufactured in his factory, regardless of the type of garment made or descriptions of the fabric used, Any manufacturers desiring to make pants upon which the thirty-seven cent (37¢) scale is fixed in the north and the thirty-four cent (34¢) rate in the south, and also desiring to make pants upon which the thirty-two and one-half cent (32½¢) rate for the north and the thirty cent (30¢) rate for the south is fixed, may do so providing his operations are performed in separate manufacturing units, separated in fact and by records, which said separation must be approved by the Administrator or his deputies. In the event a manufacturer has separate units operating under both classifications and requires the services of any worker in both units, such worker so used shall receive the highest guaranteed minimum wage for all hours of labor in both units during such payroll period, and

"Wherever any minimum wage scale is set forth, recommended, referred to or used in this resolution, such wage scale is fixed with reference to a forty-hour week under Article III, Section A of the Code of Fair Competition for the Cotton Garment Industry.

"WHEREAS further, the association believes it to be imperative

that the matters herein set forth be determined forthwith since the manufacturers of the fall pant lines of 1933 and of the spring pant lines of 1934 have been subjected to a considerable amount and degree of unfair competition in the trade due to varying interpretations and conceptions among the trade itself of the previous orders, and due to the delay in the promulgation of such orders and due to general misunderstandings, and

"WHEREAS the manufacturers are now about to introduce their fall pant lines of 1934 to the trade, it is imperative that these matters be given immediate consideration.

"NOW, THEREFORE, be it resolved that the administrator be and he is hereby requested to summon a meeting of all pant manufacturers to be held in Washington at the earliest possible moment, after giving due notice thereof to all of such manufacturers, the purpose of such meeting being to then and there fix a definite method, either of enforcing the present executive order or to promulgate a new order according to the suggestions herein contained, or to suggestions to be made at such meeting for the protection of all members of the industry and in furtherance of the principles of the National Industrial Recovery Act."(*)

III. Report of Special Administrator Godfrey Bloch.

Mr. Bloch, in the course of his investigation, visited nearly all sections of the country, discussing the question with the manufacturers, checking production problems in their plants, etc. He found general unwillingness to comply with the new amendment, with no genuine attempt by the Cotton Garment Code Authority to enforce such compliance. So he and his staff were able to do very little in administering or supervising enforcement in respect to single pants and wash suits, and his work actually became merely a fact-finding investigation. He collected complete production statistics and data on the basis of an annual production of 55,000,000 pants, and based his report (complete report follows) on information obtained from the analysis of these figures.

General Hugh S. Johnson
Administrator.

Report of Special Administrator appointed pursuant to Executive Order of March 15, 1934, being amendment No. 3 to the Code of Fair Competition of the Cotton Garment Industry, with respect to Men's and Boys' Pants and Wash Suits.

Both at the time of the original order of December 18, 1933, amending codes for the Men's Clothing Industry and Cotton Garment Industry

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(*) Resolution of Associated Pants Manufacturers of America, dated May 5, 1934. (Cotton Garment Code Files.)

and at the time of the amendment to the Code of the Cotton Garment Industry of March 15, 1934, many firms were operating on both pants and wash suits at the minimum prescribed by the Cotton Garment Code, namely 30¢ South and 32½¢ North, instead of at the wages prescribed by these amendments, namely 34¢ South and 37¢ North.

At the time that each of these orders was promulgated a substantial section of the industry was paying the newly prescribed rates or better. Other sections of the industry were willing to comply and did comply. Still other sections of the industry frankly failed altogether to comply with these rates, and naturally, such non-compliance forced some of the firms in most direct competition with the violators to abandon their own positions of compliance in order to continue operations on a competitive basis.

The first order was an attempt to put into effect a compromise between the positions of the two contending Code Authorities.

While not directly concurred in by them, it did represent middle ground between them. The second order embodied carrying out of the substance of the earlier one.

These solutions representing middle ground were not necessarily the most practical or easiest possible solutions to comply with.

Further, being the result of contention between the parties there was serious unwillingness to comply with same. It may properly be said that however poorly conceived, these orders never had a fair chance, as at no time did the Cotton Garment Code Authority vigorously undertake to enforce such compliance.

It has been reported in the press that following the issuance of the earlier order, the Board of the Southern Garment Manufacturers passed a resolution to continue the production of cotton pants on the basic minimum wage of 30¢ per hour.

The Special Administrator had occasion to travel over most of the country, beginning shortly after the issuance of the second amendment. He did not find clear indication to the Trade by the Cotton Garment Code Authority that the amendment had to be complied with. On the contrary, the emphasis put on application for stay rather than on the provisions of the amendment, left most of the trade interviewed under the impression that the matter was in abeyance and that immediate compliance was not required.

Furthermore, when the label provision of the Cotton Garment Code became effective, labels were issued freely to firms whose payrolls did not indicate any compliance with the 34 - 37¢ wage level where required.

No valid conclusions are therefore to be drawn with respect to the enforcibility of this type of provision either as drafted, or such improved provision as might be made effective.

The reaction of the cheaper manufacturers to the orders was however,

clearly adverse.

Unable in the face of these circumstances to effect compliance, the New York office of the Special Administrator became almost entirely with respect to the pants situation a fact finding office.

The Government having furnished no staff, the personnel of the various Code Authorities was freely used or borrowed from.

The specific information compiled on pants was accomplished with the assistance of a statistician paid jointly by the Cotton Garment and Men's Clothing Code Authorities; a Secretary loaned by the Dress Code Authority. The information was collected by the field men of the Cotton Garment Code Authority and by eight full time investigators loaned by the Men's Clothing Code Authority and was compiled by some six comptometer operators and typists borrowed from Code Authorities.

The information compiled was on the basis of an annual production of 55,000,000 pants and represents probably more detail than previously collected on this subject.

The statistics indicate that the line of division drawn in the executive orders which were the result of negotiations and compromise, is probably the least practical line of division that could have been chosen.

The material appended which needs close study for drawing conclusions therefrom indicates in general terms:

1. That there is no line of division between the lower and higher wage level branches of the industry that will not cut through some homogeneous businesses.

2. That if a division is made, if all pants are treated in one category and a special wage level established for them different from other cotton garments, such wage level should not seriously inconvenience or cut through greater than 20% of the industry affected.

3. That if the proposed line of division were on the basis of all cotton fabrics versus other fabrics, such line would cut through approximately 70% of all the production involved.

4. That the present line setting the lower wage rate for certain "lower cottons" at a higher rate for all other goods, cuts through approximately 92% of the production.

If the 36 hours should be adopted for the Cotton Garment Industry and rates proportionately raised, the simplest solution would of course be to have pants and wash suits both manufactured at such increased rate. This would represent only a slight reduction from the present unenforced rates, but would by virtue of the uniformity in the provisions be as readily enforcible as the general minimum wage.

It is therefore recommended that

1. For Administrative purpose all single pants be put together if possible under one code or a division of one code.

2. That the provisions of such code have the minimum wage and hour provisions of the Cotton Garment Code if such Code shall have been put on a 36 hour basis with proportionate wage increase.

3. That otherwise such code be on a 36 hour maximum with minimum wages of 37¢ in the North and 34¢ in the South.

4. That if the Administration does not see fit to unify code status of all single pants as recommended, the wage provisions be as above, and jurisdiction be settled as follows:

All wool and part wool pants to be put under Men's Clothing Code, All cotton pants to be under a Cotton Garment Code division at the 34-37½ minimum wage rates and 36 hour maximum; and further.

That rigid enforcement of the above provisions be required as a condition of maintenance of any jurisdiction by the Cotton Garment Code.

5. That a study of men's and boys' wash suits as somprehensive as that just made on pants be undertaken at once. And that jurisdiction be determined following the results of such study.

6. That the wages and hours for wash suits be identical with those set forth above for single pants, and not subject to the minima for cutters and pressers now in the Clothing Code.

7. That wherever the above solution shall result in necessity for duplicating r ports and inspections, arrangements be made as far as practicable for the furnishing of such reports to one source, and the relaying of same to the Code Authorities entitled to receive same.

Appended herewith are copies of work-sheets and tables showing findings of the statistical survey made and copies of the preliminary reports leading up to the second Executive Order.

Respectfully submitted,

Godfrey Bloch (signed)
GODFREY BLOCH
Special Administrator

Approved by
SOL ROSENBLATT
Division Administrator

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A. TABLES SUBMITTED WITH REPORT

TABLE I

BREAKDOWN OF PANTS MANUFACTURED ACCORDING TO FABRICS USED:

	Firms		Pants	
	Number	%	Quantity (Pars)	%
1. - Firms making only cotton pants and quantity of pants produced	83	24.06	15,645,893	28.14
(a) Manufacture of cotton pants in lower bracket only	56	16.23	4,062,575	7.31
(b) Manufacture of pants in higher and lower bracket cottons	27	7.83	11,583,318	20.83
2. - Firms making cotton pants and also wool and part wool pants and quantity of pants produced	235	68.12	39,343,890	70.75

TABLE II

BREAKDOWN OF FIRMS MAKING LOWER GRADE COTTONS (EITHER EXCLUSIVELY OR ALONG WITH OTHER FABRICS) TO SHOW PERCENTAGE OF THE TOTAL PRODUCTION (QUANTITY) REPRESENTED BY THE LOWER BRACKET COTTONS

	No. of Firms
1. - Less than 25%	53
2. - 25% to 50%	54
3. - 51% to 75%	55
4. - Over 75%	111

TABLE III

BREAKDOWN OF FIRMS MAKING WOOL AND PART WOOL PANTS TO DETERMINE PERCENTAGES OF THE TOTAL PRODUCTION REPRESENTED BY WOOL AND PART WOOL.

	Firms		Pants	
	Number	%	Quantity (Pairs)	%
1. - Wool or part wool less than 25%	111	32.16	22,447,643	40.36
2. - Wool or part wool from 25% to 50%	78	22.61	11,065,693	19.90
3. - Wool or part wool from 51% to 75%	33	9.57	4,337,755	7.80
4. - Wool or part wool over 75%	28	8.12	1,521,482	2.74

TABLE IV

Sheet No. I

TOTAL QUANTITY OF PANTS MANUFACTURED ACCORDING TO GEOGRAPHICAL DISTRIBUTION: (PAIRS)

	Wool and Part Wool	Lower Cottons	Higher Cottons	Total Pants	
Louisiana	---	582,513	13,476	595,989	
Mississippi	---	495,481	62,712	558,193	
Tennessee	14,839	521,744	341,243	877,826	
Alabama	61,099	545,841	143,340	750,280	
Georgia	233,289	1,619,298	1,215,617	3,068,204	
N. Carolina	100	2,776	---	2,876	
S. Carolina	60,000	---	---	60,000	
Southeast	369,327	3,767,653	1,776,388	5,913,368	
S. E. Percent.	3.80%	13.39%	10.29%	10.63%	
Texas	188,506	2,755,655	973,175	3,938,540	*21,204
Arkansas	4,128	113,293	178,896	296,317	
Southwest	192,634	2,868,948	1,152,071	4,234,857	
S. W. Percent	1.98%	10.19%	6.68%	7.62%	
Virginia	9,531	1,262,597	2,412,408	3,684,536	
Kenticky	---	24,000	---	24,000	
W. Virginia	518,258	427,125	100,618	1,046,001	
Maryland	486,756	2,360,922	1,896,129	4,743,877	
Missouri	40,046	1,456,046	1,012,838	2,508,930	
Border States	1,054,591	5,530,760	5,421,993	12,007,344	
Bo. St. Perc.	10.85%	19.65%	31.43%	21.59%	
Pennsylvania	640,329	2,351,765	1,745,969	4,738,063	
New Jersey	135,156	623,278	562,620	1,321,054	
New York	4,302,052	6,064,205	3,043,262	13,409,519	
Mid. Atlantic	5,077,537	9,039,248	5,351,851	19,468,636	
M. A. Perc.	52.26%	32.12%	31.02%	35.01%	
Ohio	528,892	710,310	925,297	2,164,499	
Indiana	318,452	1,418,590	780,872	2,793,632	*275,718
Michigan	456,760	406,601	369,035	1,232,396	
Illinois	855,977	1,110,380	400,856	2,396,853	*29,640
Wisconsin	1,728	76,848	2,436	81,012	
Minnesota	---	5,857	---	5,857	
Iowa	996	62,553	4,500	68,059	
Nebraska	---	3,780	---	3,780	
Kansas	---	57,012	---	57,012	
Mid West St.	2,162,805	3,851,941	2,482,996	8,803,100	
M. W. S. Perc.	22.26%	13.68%	14.39%	15.83%	

Sheet II

TOTAL QUANTITY OF PANTS MANUFACTURED ACCORDING TO GEOGRAPHICAL DISTRIBUTION: (PAIRS)

	Wool and Part Wool	Lower Cottons	Higher Cottons	Total Pants	
Colorado	3,235	30,291	59,412	92,938	
California	104,944	145,843	28,748	279,535	
Washington	64,564	293,706	--	358,270	
Utah	4,044	85,944	--	89,988	
Western States	176,787	555,784	88,160	820,731	
West. Percentage	1.82%	1.97%	.51%	1.48%	
Massachusetts	610,907	1,759,230	594,904	2,965,041	
Maine	26,188	24,648	17,625	68,461	
Connecticut	25,049	51,328	2,853	79,230	
Vermont	300	300	--	600	
New Hampshire	1,332	40,596	7,644	49,572	
New Eng. States	663,776	1,876,102	623,026	3,162,904	
N. E. Percentage	6.83%	6.67%	3.61%	5.69%	
Dist. Columbia	19,286	655,760	357,144	1,197,890	*165,700
D. C. Percentage	.20%	2.32%	2.07%	2.15%	
GRAND TOTAL	9,716,743	28,146,196	17,254,629	55,608,830	*492,262

Note:

*Totals only, no breakdowns given as to woolens and cottons.

TABLE V

NUMBER OF COMPANIES INCLUDED IN THE PANTS SURVEY OBLIGATED TO PAY THE 34¢-37¢ MINIMUM:

Violation	Compliance	Total
90	56	146
62%	38%	100%

QUANTITY OF CLOTHING MANUFACTURED ACCORDING TO GROUP SEGREGATION

(Cont'd)

	Number of Firms	All Wool And Part Wool	Pants 100% Cotton Content Lower	Pants 100% Cotton Content Higher	Total Pants	Other Garments Overalls Dungarees Shirts	Other Garments Other Under Cotton Garment Code	Other Garments Other Garments	Total Garments Other Than Pants	Grand Total
Group 1. Firms whose product is 99% or better of pants only.	199	7,448,812	13,368,412	8,628,097	29,445,321					29,445,321
	Across	25.30%	45.40%	29.30%	100%					100%
	Down	76.66%	47.50%	50.02%	52.94%					31.04%
Group 2. Firms making any pants together with overalls, dungarees, and shirts in distinct shops or distinct departments of the same shop (including those making other garments also).	28	405,939	5,025,666	4,243,888	9,862,397	6,795,161	504,947	177,358	7,477,466	17,339,863
		2.34%	28.99%	24.47%	56.87%	39.15%	2.93%	1.05%	43.13%	100%
		4.18%	17.85%	24.60%	17.73%	28.40%	4.45%	4.47%	19.05%	18.28%
Group 3. Firms making the same classes of clothing as Group 2, in distinct departments of the same shop but with occasional overlapping of product.	21	293,231	2,796,468	944,937	4,034,636	2,474,481	521,157	746,763	3,742,401	7,777,037
		3.77%	35.96%	12.15%	51.88%	31.82%	6.70%	9.60%	48.12%	100%
		3.02%	9.93%	5.49%	7.26%	10.34%	4.57%	18.81%	9.53%	8.20%
Group 4. Firms making pants in separate shops or departments together with other garments than overalls, dungarees and shirts.	7	180,305	745,931	812,627	1,738,863		447,620	32,555	480,175	2,219,038
		8.13%	33.62%	36.62%	78.36%		20.17%	1.47%	21.64%	100%
		1.86%	2.65%	4.72%	3.14%		3.94%	.82%	1.22%	2.34%
Group 5. Firms making pants together with any other garments in the same shop or department (including overalls, dungarees and shirts).	69	620,654	5,497,214	1,701,867	8,125,093	6,176,097	1,446,785	1,879,230	9,502,112	17,627,205
		3.52%	31.19%	9.65%	46.09%	35.04%	8.21%	10.66%	53.91%	100%
		6.39%	19.53%	9.87%	14.41%	25.81%	12.74%	47.34%	24.21%	18.58%
(a) Firms coming within Group 5 but whose production is less than 90% in pants.	61	97,836	[illegible]	1,154,742	5,676,393	6,143,577	1,356,335	1,876,446	9,376,358	15,052,751
		1.98%	[illegible]	7.67%	37.71%	40.81%	9.01%	12.47%	62.29%	100%
		3.07%	14.90%	6.69%	10.21%	25.67%	11.94%	47.25%	23.89%	15.87%
(b) Firms coming within Group 5 but whose production is more than 90% in pants.	8	322,818	1,303,039	547,125	2,448,700	32,520	90,450	2,784	125,754	2,574,454
		12.54%	50.62%	21.25%	95.11%	1.26%	3.52%	.11%	4.89%	100%
		4.32%	4.63%	3.18%	4.40%	.14%	.80%	.07%	.32%	2.71%
Group 6. Firms making pants together with other garments but not including overalls, dungarees, and shirts, in the same shop or department.	21	767,802	712,505	922,213	2,402,520	8,482,994	8,436,354	1,134,124	18,053,472	20,455,992
		3.75%	3.48%	4.51%	11.74%	41.47%	41.24%	5.55%	88.26%	100%
		7.89%	2.54%	5.30%	4.32%	35.45%	74.28%	28.56%	45.99%	42.56%
(a) Firms coming within Group 6 but whose production is less than 90% in pants.	18	513,714	594,883	711,829	1,820,426	8,482,994	8,422,443	1,134,124	18,039,561	19,859,987
		2.59%	3.00%	3.58%	9.17%	42.71%	42.41%	5.71%	90.83%	100%
		5.28%	2.11%	4.10%	3.27%	35.45%	74.16%	28.57%	45.95%	20.93%
(b) Firms coming within Group 6 but whose production is more than 90% in pants.	3	254,088	117,620	210,384	582,094		13,911		13,911	596,005
		42.63%	19.74%	35.30%	97.67%		2.33%		2.33%	100%
		2.61%	.43%	1.20%	1.05%		.12%		.04%	.63%
TOTAL PERCENTAGES		10.24%	29.67%	18.19%	58.63%	25.22%	11.97%	4.18%	41.37%	100%
GRAND TOTAL	345	9,716,743	28,146,196	17,253,629	55,608,830	23,928,733	11,356,863	3,970,030	39,255,626	94,864,456

CHAPTER VI

AMENDMENT NO. 7 TO COTTON GARMENT CODE, AUGUST 21,1934.

I. Contributing Events Prior to this Amendment.

The more favorable hour and wage provisions of the Cotton Garment Industry Code had been subject to steadily increasing criticism and complaint from all the other garment industries. Up to now the Administration had in reality been "ducking the issue," and taking no steps, as provided for in the original Cotton Garment Code, to officially consider the desirability of reducing the hours permitted by this Code. However, in view of these universal and pronounced protests, it was deemed necessary to call a public hearing for full discussion of these provisions, and both the Men's Clothing Code Authority and the Dress Manufacturing Code Authority submitted applications for amendment or modification of their Codes in relation to garments on which there had been serious overlapping controversies with the Cotton Garment Code.

A. Notice of Public Hearing June 18, 1934.

So on May 31, 1934, the Administration issued a notice of public hearing to be held on June 15, 1934 (Later notice of June 7, 1934, postponed this hearing until June 18, 1934,), Schedules A and C reading as follows:

"Schedule 'A'

"Cotton Garment Industry

"1.

"Whether Article II, Section (a) of the Cotton Garment Code shall be amended to read as follows:

"A. As used in this Code the term 'Cotton Garment Industry' means and includes the production by any of the following processes: (a) cutting, (b) creasing, (c) sewing (all or part of the garment), (d) trimming, (e) pressing, (f) finishing, (g) examining and inspecting, (h) boxing, or all of them of any article or garment, and known as (1) overalls, dungarees, overall jackets, and coveralls; (2) men's shirts, including knitted outer shirts and polo shirts; (3) boys' shirts and blouses; (4) work shirts of any material, including flannel shirts; (5) pajamas and night shirts; (6) men's collars; (7) oiled cotton garments; (8) nurses' and maids' aprons and uniforms; (9) washable service apparel.

"2.

"Whether Article II, Section (b) of the Cotton Garment Code shall be deleted.

"3.

"Whether all references to any of the products not hereinabove defined in Article II, Section (a) and all references to 'cotton wash dresses', shall be deleted from every Section of the Code of Fair Competition for the Cotton Garment Industry wherein so referred to.

"4.

"Whether the hours of labor shall be reduced from the present forty-hour maximum and if so, whether the basic wage rates shall be changed.

"5.

"Whether wage rate provisions of the Code should be modified to provide for

"(a) Minimum wage for cutters;

"(b) Scales for other skilled workers."*

"Schedule 'C'

"Amendment to the

Code of Fair Competition for the
Men's Clothing Industry

"Paragraph 1 of Article I shall be amended to read as follows:

"'The term "Men's Clothing Industry" as used herein is defined to mean the manufacture of men's, boys', and children's clothing, uniforms, single knee-pants, men's and boys' pants, men's and boys' wash suits, men's and boys' summer clothing, mackinaws, lumberjacks, Melton jackets, sheep-lined and leather (including imitation leather fabric) garments, play and sport garments.

(*) Schedule "A" attached to notice of public hearing No. 15-M, 20-E and 10-E, dated May 31, 1934.

"Article XIII shall be amended to read as follows:

"'The membership of the Men's Clothing Code Authority shall be increased by two members who shall be representatives of the groups or associations and/or manufacturers who shall be found to be truly representative of the members of those industries which have been added to this Code pursuant to the amendment of Paragraph 1 of Article I.'"*

B. Protest Letter to Industry by Cotton Garment Code Authority.

The Cotton Garment Industry, as always, opposed to any reduction in hours, strenuously objected to the calling of this hearing, and the inclusion of the proposed changes in the other two Codes which would seriously affect their Industry. On June 6, 1934, Mr. W.C.Morgan, Executive Director of the International Association of Garment Manufacturers, sent the following letter to all members of the Cotton Garment Industry, urging concerted action in opposition to these proposed amendments.

"TO ALL MEMBERS OF COTTON GARMENT INDUSTRY:

"On June 4, 1934, a copy of the Notice of a Public Hearing to be held in Washington, D. C. on June 15, 1934, was mailed to you by the Code Authority.

"The following action is proposed by the National Recovery Administration, subject to aforesaid public hearing:

1. Place 'cotton wash dress' manufacturers under Dress Manufacturing Code.

2. Restrict work clothes manufacturers to 'overalls, dungarees, overall jackets, and coveralls' under Cotton Garment Code and place balance of their products under Men's Clothing Code.

3. Place 'boys' wash suits' under Men's Clothing Code.

4. Place 'men's and boys' pants, when made in work clothing factories' under Men's Clothing Code.

5. Place 'sheep lined and leather garments' under Men's Clothing Code.

(*) Schedule "C" attached to notice of public hearing No. 15-N, 20-E, and 10-E, dated May 31, 1934.

6. Place 'men's cotton wash suits' under Men's Clothing Code.

7. Propose a reduction in maximum hours and an increase in basic wage rates in entire Cotton Garment Industry.

8. Establish separate higher minimum wage rates for cutters and other skilled workers in entire Cotton Garment Industry.

"We are convinced that any attempts to effectuate such radical and dangerous proposals as above enumerated would result in:

1. A serious and drastic curtailment of employment in the industries affected.

2. A curtailment of production to the extent of loss to the manufacturers affected.

3. Raising retail prices to a point where sales will become stagnant.

4. A consumer's buying strike due to their inability to absorb increased costs for these types of wearing apparel.

"We believe it is extremely important and urgent that you register active protest to the above proposals through any channels available to you, and especially:

1. Senators
2. Congressmen
3. Chamber of Commerce
4. National and Local Trade Associations
5. Consumer organizations (Women's Clubs, etc.)

"We desire to impress upon you the importance of arranging to appear personally at the public hearing. However, whether or not you can do this, you should immediately notify the NRA that you desire to be personally heard at this hearing. Do this by either wirtten or telegraphic request, to be addressed to:

Mr. William P. Farnsworth,
Acting Division Administrator, Room 4221
Department of Commerce Building,
Washington, D. C.

"In your letter, advise him of your desire to be personally heard. Advise him what subjects you will cover. Send a copy of this letter to the Cotton Garment Code Authority, 40 Worth St., New York City. Then make up a statement covering that which you will discuss. Lay emphasis on facts, figures and statistics. Send an advance copy of this document to the Code Authority.

"We especially desire that you shall appreciate that this forthcoming hearing is absolutely vital to this Industry and that volume representation by our members, at the hearing, together with the filing of a large number of requests to be heard, is paramount. Please, therefore, carefully consider our suggestions above and act at once.

"We assure you that it is our intention to cooperate to the fullest extent with you and that we will enlist all available forces to circumvent the adoption of these amendatory proposals which, if made effective, would result in a chaotic rather than an improved industrial situation in our Industry.

"This letter is written at the direction of Mr. Stanley A. Sweet, Chairman of the Board of Directors of the International Association of Garment Manufacturers."*

C. Protest Letters and Testimony Regarding the Calling of This Hearing.

Mr. Ralph Hunter, Chairman of the Cotton Garment Code Authority, protested at the hearing as follows:

"During May Mr. Morris Greenberg from NRA called and stated that he had been sent to New York to coordinate the apparel codes and the administration of the codes and asked the Executive Director and myself, as chairman of the Code Authority, whether we would agree to a hearing on shorter hours and with compensatory higher wages. The request was brought before the Code Authority on May 18th and upon resolution made and duly passed the Administrator was advised that we would agree to such a hearing.

(*) Letter dated June 6, 1934, to All Members of Cotton Garment Industry, from W. C. Morgan, Executive Manager, I.A.G.M. (Cotton Garment Code files.)

> "No mention was made at the time that such sweeping changes in the definitions of our code would be undertaken at this hearing, nor where the so-called requests of the dress code and clothing code divulged to members of our industry until we received a notice of the hearing, dated May 31."*

Division Administrator Rosenblatt, who conducted the hearing, said in his opening remarks:

> "Now, there may have been some question heretofore with respect to the purpose of this hearing and the choice of this particular time at which to hold such hearing. Apparently, a great misconception exists as to the reasons for this hearing, and that misconception, unfortunately, is not confined solely to members of the three industries whose codes are before us today, but also to those who purport to have an interest representing other persons within or without the industry, although they themselves are not members of the industry."**

He also referred at length to the qualifying statements as to definitions and possible future overlapping questions in General Johnson's letter of transmittal, dated November 7, 1933, accompanying the Cotton Garment Industry Code. He stated as follows:

> "Further, with respect to the consideration of possible amendments with respect to hour and wage provisions in the Cotton Garment Code, I desire to read into the record the following wire under date of April 10, 1934, addressed to the Cotton Garment Code Authority, 40 Worth Street, New York City, signed by Earl Dean Howard, then Deputy Administrator:

(*) Transcript of Hearing on the Men's Clothing, Cotton Garment and Dress Manufacturing Industries, Volume 4, Page 1001. June 22, 1934, Day Session.

(**) Transcript of Hearing on the Men's Clothing, Cotton Garment, and Dress Manufacturing Industries, Volume 1, Page 3. June 18, 1934.

"'Division Administrator advises that an amendment be offered by your Code Authority reducing maximum hours from 40 to 36 with equitable wage adjustments to bring your Code into better alignment with other Apparel Code. Please reply.

"And the following wire, dated April 11, from R. B. Paddock, Executive Director, of the Code Authority, addressed to Dr. Earl Dean Howard:

"'Retel following form letter Administrator statistical studies now being made to determine readjustment of hours (stop) request for detail meaning your clause quote to bring your Code into better alignment with other Apparel Codes unquote.'"*

"A few Administrative Orders were made by the Administration respecting the classification of the wash dress manufacturers, or their establishments, rather, and the men's pants establishments. The Special Administrator appointed with respect to those considerations is bound to report by July 1st to the Administrator. The situation has proved, although enlightening, rather discouraging from the standpoint of having a construction program if the same arrangement were to continue as under those few Administrative Orders. They were temporary and merely proposed to be for the purpose of alleviating temporary questions respecting conflicts of definitions and overlapping codes, and it was also in view of the fact that these orders are about to expire by their very terms, and because cotton dress manufacturers throughout the United States are faced with the necessity of keeping their factories open and not closed with respect to the coming fall season, that it was determined that these hearings should proceed forthwith, and without further delay."**

(*) Transcript of Hearing on Men's Clothing, Cotton Garment and Dress Manufacturing Industries, June 18, 1934, Volume 1, Page 7.

(**) Transcript of Hearing on Men's Clothing, Cotton Garment and Dress Manufacturing Industries, June 18, 1934, Volume 1, Page 8.

II. Public Hearings of June 18 to 22, 1934.

A vast mass of testimony was presented at this four-day hearing, including statements and briefs from many Senators, Congressmen, Code Authority members and Industry members of the Cotton Garment, Men's Clothing and Dress trades. We are not primarily interested here in the subject of the reduction in hours, but merely in statements pertinent to the jurisdictional conflict on single pants and wash suits.

A. Arguments of the Men's Clothing Industry.

Mr. George L. Bell, Executive Director of the Men's Clothing Code Authority, briefly pictured the current situation as follows:

> "An attempt was made to define the distinction (between pants and so-called work pants) by an Executive Order in December, 1933. The Inter-Code Committee, created at that time, soon found itself utterly unable to interpret and carry into practical effect the Executive Order. The result was that some manufacturers of pants worked under the Men's Clothing Code, some under the Cotton Garment Code, and I am sorry to say that too large a number worked under no Code at all. It became apparent that the attempt to clarify had led only to chaos, or at least more chaos.
>
> "In an effort to remedy this situation, another Executive Order issued in March, 1934, which attempted to segregate and classify pants on the basis of fabrics. But again, everyone in the pants industry was confused and dissatisfied. Since the issuance of the Executive Order on March 15, I think I am safe in saying that the status of the pants question has been worse rather than better."*

An analysis of the statement of H. K. Herwitz, Comptroller of the Men's Clothing Code Authority, at the hearing of June 20, 1934, is as follows:

> Reports for 345 firms who manufactured during the past year over 55,000,000 pairs of single pants, were received and tabulated (truly representative, as U. S. Census of Manufactures, in 1931, reported 60,241,000 pairs of men's and boys' single pants, and in 1929, 66,000,000 pairs).

(*) Transcript of Public Hearing on Men's Clothing, Cotton Garment, and Dress Manufacturing Industries, June 20, 1934, Volume 3, Page 620.

Tabulation disclosed that 74% of all the single pants manufactured by these establishments were made by firms who either specialized in the making of single pants and made no other product, or who made their single pants output in separate shops or factories wholly segregated from shops or factories making any other product.

Firms specializing only in the making of single pants manufacture 53% of all single pants, and firms having separate shop or shops for the making of single pants, wholly segregated from other shops in the same establishment making other products, manufacture 21% of all single pants.

In other words, 74% of the single pants made in this country are made by workers who do not make any other product. In the establishments of firms making 7% of all single pants, there is occasional overlapping of products manufactured. In some of these shops single pants may be made during one season of the year, and other products in the other season of the year, or there may be no rigid division between shops or sections of the establishments working on single pants and on other products (which he says are mackinaws, shirts, and overalls).

Only 19% of the single pants manufactured are manufactured in establishments where the workers are employed on more than one product. Claim is frequently made that single pants are manufactured in appreciable quantities in work clothing factories in conjunction with work clothing, that is, by the same workers who make overalls and work shirts. This claim is not borne out by the results of the summary made under the direction of the Special Administrator.

I repeat--three-fourths of all single pants are made by workers who do not make any other product.

On the questionnaire sent out by Godfrey Bloch, 169 firms reported number of workers employed. 57 firms, making 14,000,000 apirs of single pants, employing 7,700 workers, are paying the higher minimum rates--34¢ in the South and 37¢ in the North. 112 firms, making 19,000,000 apirs of single pants, employing 16,400 workers, are paying the lower minimums--30¢ in the South and 32½c in the North.

32% of these workers are paid at the higher rate. Many plants, paying the lower rates, are manufacturing single pants of wool or part wool and of fabrics covered in Executive Order of March 15, 1934, requiring the higher rates of 34¢ and 37¢.

Summarizing, therefore, firms paying the higher rates employ 32% of the total number of workers and their output constitutes 44% of the total manufactured by these reporting firms. Only 26% of all firms reporting made cotton single pants exclusively, and 74% included wool and part-wool pants among their products.*

Mr. David Dreyfus, Counsel for the Men's Clothing Code Authority, stated the views of that body as follows:

"On the pants question there must be one minimum for the North and one minimum for the South, no matter whether they be members of the Men's Clothing Code, or whether they be members of the Cotton Garment Industry. That issue is square. But if you put the members of the pants industry under the Cotton Garment Industry, you are faced then with the situation that thirty per cent of the workers in this land in the industry making pants will have their wages reduced.

"And therefore we say to you that the entire Industry should be put under the Men's Clothing Code as it has originally been put in the Code when the President signed it on August 26, 1933.

"The Men's Clothing Industry wants this Industry under their Code, because there is unfair competition. The articles are interchangeable and are used by the same consumer for the same purpose. The article is made by the same workman, trained in the same tools, and in the art of clothing people. The articles are made in the same shops, similar shops, I should say, and the machinery is the same kind of machinery. They are sold to the same consumers, and the distributor displays them on the same counter. A suit worn in July is just as much a suit as one that is worn in December. A coat worn for protection against the cold is just as much clothing, whether you call it an overcoat in Baltimore, or a mackinaw or Melton in Duluth. (Then quotes figures given

(*) See Transcript of Hearing on Men's Clothing, Cotton Garment, and Dress Manufacturing Industries, June 20, 1934, Volume 3, Pages 626 to 630.

by Herwitz - fifty-three percent of production made by manufacturers who make nothing but pants, etc.) That makes the total problem less than twenty percent who do not operate their factories as separate pants units."*

Mr. George Hexter, of the Clothing Code Authority staff, said:

"Our next and chief contention is that the way out of this involved situation is simply to establish one minimum with sectional differentials, for all odd pants, irrespective of fabric, of construction, or of use. A growing number of pants manufacturers in all sections of the industry has come to this conclusion.

"The Associated Pants Manufacturers, as a body adopted the same position, as we learn from the following account of the meeting held by this group in Chicago on May 6, 1934. - The manufacturers at the session included several from the East and South, and the general feeling was that instead of one minimum scale for certain pants and a higher for others, there should be one minimum with a southern differential applying to all factories. This plan would make enforcement much easier and eliminate much chiseling.

"From all this it is evident that the insistence on a single minimum for all pants instead of being confined, as has been charged, to the group of manufacturers located in New York City is shared by representative pants manufacturers in all sections of the country, and has been endorsed by the pants association having the widest geographical coverage.

"From statement in Daily News Record of February 16, 1934, by Mr. Oscar Berman of Cincinnati - 'The cry and hullabaloo that an increase of four cents an hour on these garments is going to put the Southern manufacturers out of business is certainly without foundation of fact. The additional cost is about thirty-five cents a dozen, less than three cents a pair,

(*) Transcript of Hearing on Men's Clothing, Cotton Garment, and Dress Manufacturing Industries, June 20, 1934, Volume 3, Page 705.

or the equivalent of one and one-half cents a yard for thirty-six inch goods. They will advance their selling prices - this may or may not create a little more sales resistance, but since the law forbids men to go without pants, they will eventually buy them anyway!"*

An analysis of the statement of Mr. Joseph E. Brill, of the National Boys' Pants Manufacturers Association, follows:

"Fifty-two manufacturers of men's and boys' single knee pants and long pants in this Association.

"Majority of offices in New York City and manufacturing done outside in New York, New Jersey, Pennsylvania, and Connecticut. Produce 8,500,000 pair, fifteen per cent of total pants production.

60% of production of pure cotton pants
30% of production of mixed cotton
10% of production of woolen

"Operated under Men's Clothing Code and urged that all pants be put under this Code; objected to unfair competition of those manufacturers under under the Cotton Garment Code, many of whom did not even comply with that Code.

"Average additional cost of four and one-half cents per pair of pants to Men's Clothing manufacturers over Cotton Garment manufacturers. Results in increased cost of six cents to seven cents per pair to the consumer. This means total costs of this Association's members are about $400,000 more than costs of their competitors.

Price Ranges Manufactured by this Assn'.

Boys' Pants	Wholesale $4.25 to $22.50 per dozen	Retail $.50 to $2.40 per pair
Men's Pants	Wholesale $10.50 to $39.00 per dozen	Retail $1.29 to $4.50 per pair **

(*) Transcript of Hearing on Men's Clothing, Cotton Garment and Dress Manufacturing Industries, June 20, 1934, Volume 3, Page 647.

(**) See Transcript of Hearing on Men's Clothing, Cotton Garment, and Dress Manufacturing Industries, June 20, 1934, Volume 3, Pages 631 to 634 and 653.

B. Arguments of the Cotton Garment Industry

Opposing any change in the classification, Congresswoman Florence P. Kahn of California spoke for the manufacturers of her state as follows:

> "We have no large clothing manufacturers such as exist in the East, in California. We have, however, 185 cotton garment factories scattered all over the Coast, but principally concentrated in San Francisco and Los Angeles...The particular item of largest volume in importance both to the manufacturers and the consumer involved is this cotton pants or working pants of 100 per cent cotton content...This comprises a large industry giving employment to several thousand persons--consumers of comparatively low purchasing power, and could not afford, in any event, to substitute the type of garment primarily made in the men's clothing shop...Any change would increase by 20 or 25 percent the cost of such cotton pants."(*)

The Philadelphia Overall and Work Pants Manufacturers Association filed the following brief:

> "I represent the Philadelphia Overalls and Work Pants Manufacturers Association, whose membership includes thirteen (13) of sixteen manufacturers in our City - all of whom manufacture cotton work clothes and under the Cotton Garment Code.
>
> "Our membership represents over 85% of the employees engaged in these shops and over 85% of the manufacturing output. We employ approximately 1200 men and women.
>
> "One of the contemplated changes affects our Industry to such a degree that unfavorable consideration may mean the death of an Industry which has as much right to live unmolested and unrestricted as does the Men's Clothing Industry.
>
> "The Notices sent to the Cotton Garment Industry advises that you will consider restricting work clothes manufacturers to 'overalls, dungarees, overall jackets and coveralls' under the Cotton Garment Code and place the balance of their products under the Men's Clothing Code.

(*) Transcript of Hearing on the Men's Clothing Cotton Garment, and Dress Manufacturing Industries, June 18, 1934, Volume 1, Pages 12 and 13.

"In considering this contemplated change it is necessary to see the purpose thereof and then to consider the results of such a change.

"From the very adoption and approval of the Cotton Garment Code it was evident that the Men's Clothing Industry was maliciously seeking to make serious inroads and to secure unwarranted control of an Industry totally unconnected with it from time immemorial and in which they were never interested until the inception of N.R.A. The only purpose which can be deduced for this contemplated change seems to be to increase and widen the market for Men's Clothing manufacturers at the expense and financial ruin of the Cotton Garment Industry."

"Let us consider the two Industries and we shall see that this is a fact. Men's Clothing manufacturers produce woolen garments or garments with an overwhelming woolen content.

"Their products were never intended for the laboring class to be used as work clothes. They were intended for sport or dress. Their employees are all skilled employees whose wage scale was always materially higher than in our Industry. Men's Clothing were and are handled by distinguished and exclusive clothing stores and the better departments of department stores. Very rarely, if ever, will you find work clothes and dress or sports clothes displayed together in the same retail or department store.

"The contrary is true of the Work Clothes Industry. Its employees are unskilled. Their wage scale has been materially, and justly so, lower than that of the Men's Clothing Industry. Its products are sold in separate departments (usually in the basement) of department stores and in distinct retail stores. Work Clothes are intended solely for working purposes for the laborer - not for the 'white collar man'. The sales prices of work clothes has been materially lower than men's pants or suits. Work Clothing have never been, and are not, intended for sports or dress.

"It is inconceivable, therefore, from the foregoing distinctions to justify this attempt by the Men's Clothing Industry to usurp con-

trol over Work Clothing except on the ground of a malicious intent to kill the Industry for its (The Men's Clothing Industry's) betterment.

"If the purpose is so odious, the results are obviously more serious. It cannot be disputed by anyone that the manufacturer of work clothes today finds it very difficult to sell his product since the recent price increases. A buyers strike already exists and adds to this difficulty.

"Let us assume, for the sake of argument, that a change is made, and for instance, the manufacture of work pants is controlled by the regulations of the Men's Clothing Code. There would be very little difference in the selling price of Cotton and Woolen Trousers. The consumer would naturally pay the slightly higher price and purchase the woolen trousers. The market for work pants would be serious curtailed. The result would be that innumerable manufacturers of work clothes would shut down and many employees would be out of employment. For let us not forget that work clothes factories in our Industry manufacture 80% of those garments, which the contemplated change seeks to transfer to the clothing Code. And 80% of our employees are also affected thereby. The burden, therefore, is upon practically our entire Industry.

"The remaining manufacturers would eliminate and cease the manufacture of Cotton Pants and products and change their factories to men's clothing establishments. This would mean laying off all the unskilled laborers now employed and the hiring of skilled laborers for the manufacturing of men's clothing. The effect would be a bommerang! In time individual men's clothing factory sales would decrease because of the resulting competition - entirely destructive.

"And are we not reasonable in supposing and anticipating that the work clothes manufacturer in restricting his business to the manufacture of overalls and coverals will meet the serious competition of the South?

"It is, for the facts and reasons set forth hereinabove, respectfully submitted that

(1) The purpose of the contemplated change is both unsound and maliciously destructive to one Industry for the exclusive advantage of another Industry foreign thereto; and

(2) That the results of such a change would defeat the fundamental purposes of the N.R.A. by destroying an old Industry, causing serious unemployment, and the possible ruin of the Industry seeking to benefit by the change.

"We, the Philadelphia Overall and Work Pants Manufacturers Association, composed of the following members who join in this protest, oppose the contemplated change which would limit and restrict work clothes manufacturing under the Cotton Garment Code to 'overalls, dungarees, overall jackets and coveralls' and place the balance of their (Work Clothes Manufacturers) products under the Men's Clothing Code." (*)

Mr. Harry Johnson, of Obermann & Company, Springfield, Mo., claimed that any higher selling prices would be very disastrous to manufacturers of cotton pants.

"I am speaking for the following five regional groups of the Cotton Garment Industry:

	Firms	Machines	Employees
Southern Garment Mfrs. Ass'n.	310	35,400	45,800
Central West " " "	57	3,100	4,200
Ohio-Indiana " " "	26	2,200	2,900
New England " " "	76	8,400	9,600
Southwest Work Clothes Mfrs. Ass'n.	41	4,600	5,700
	510	53,700	68,200

"Principally located in small rural communities. It is our opinion that the prices we are now obliged to quote are too high for the consumer

(*) Statement of Facts and Argument Against the Changes Contemplated in the Cotton Garment Code submitted on Behalf of the Philadelphia Overalls & Work Pants Manufacturers Association, Cotton Garment Code Hearing, Monday, June 18, 1934.

to pay with their present income. The demand for low-priced garments in every direction in our industry is the proof of this statement. If any move is made over our protests to increase the prices that the consumer must pay, we have no alternative but to protect ourselves in the courts. The fantastic claim of the Clothing Code to the cotton pants industry, a group which cuts three percent of the cloth used in the cotton pants industry aspires to govern the other ninety-seven percent.

"It may be noted that the cotton pants industry has uniformly ignored the so-called pants order for several reasons- first- that the order itself was unintelligible and it was an impossibility to get an interpretation that was not in the realm of metaphysics; second - had a sensible interpretation been available it would have been obviously impossible to carry it into practice in our industry; third - the Cotton Garment Industry does not recognize the authority of any outside bureaucratic organization to set basic rates in our industry any more than they can do so in the automobile or steel industry. We may be smaller but our rights are the same. The Cotton Garment Industry is a self-governing body and any decisions as to rates and hours can only be enforced with the consent of the Cotton Garment Code Authority." (*)

C. Testimony Regarding Mackinaws, Melton Jackets, Etc.

While the total volume of production of mackinaws, melton jackets, sheeplined and leather coats, lumberjacks, and similar garments was comparatively small, the jurisdictional conflict of the two Codes as to their manufacture had been proportionately as acute as on the pants and wash suits. At this hearing, the Men's Clothing Code requested complete jurisdiction over such garments, and the following testimony was offered both pro and con on this question.

"This Association founded twenty-six years ago, among past presidents have been manufacturers of sheeplined and leather garments, pants and

(*) Transcript of Public Hearing, on Men's Clothing, Cotton Garment, and Dress Manufacturing Industries, June 20, 1934, Volume 3, Page 847.

mackinaws.

"The Cotton Garment Industry is also an industry representing clothes to work in for men, women and children.

"Sheeplined and leather coats are primarily working clothes and there is no satisfactory reason why they should be classed otherwise or be moved from where they are at present.

"Mackinaws, meltons, and lumberjackets have for decades been an integral part of any line which features overalls, work shirts, flannel shirts, work pants, and similar goods. From time to time, garments such as these, developed for work use, are adopted by clothing houses, dressed up a little, and for a reason or two shown as style propositions. This is the only argument, and a feeble one at that, which can be advanced to claim that they may be identified as Clothing.

"I quote from Sweet-Orr and Company's price list, dated Spring, 1913, showing three and one-half pages devoted to mackinaw coats alone, and listing seventy-three different styles. Also price lists of October, 1926, showing eight pages of so-called knit-bottom jackets, cossack jackets, meltons, etc.

"Separate pants of all styles have always been an integral part of a cotton garment line. The manufacture of separate pants, even of woolens and worsteds, has always been a part of the cotton garment industry until the time, some years ago, when clothing houses began making two pants suits. This gradually took away from the cotton garment industry a good part of the higher grade classes of pants. Cotton pants of any kind, however, properly belong where they now are." (*)

"About one hundred plants scattered throughout the United States - employing several thousand people, producing garments known as mackinaws, stag shirts, snow suits, suede and Melton blouses, etc., designed and used for rough outdoor work and play, and produced and sold in conjunction with work coats, work pants, and overalls.

"Statement as to why they should remain under the Cotton Garment Code:

(*) Transcript of Hearing on Men's Clothing, Cotton Garment, and Dress Manufacturing Industries, Volume 3, Page 814, June 20, 1934. (Stanley A. Sweet)
Chairman of the Board- International Association of Garment Manufacturers.

1. Have been originated by some producers as work garments for strenuous outdoor activities under severe climatic conditions. These garments for twelve years or more have been grouped by the Department of Commerce with work garments such as overalls and work pants.

2. Style and methods of construction and materials are so crude as to bear no comparison with the products under the Men's Clothing Code. Principal objects of the manufacturers have always been speed of production and durable wearing qualities at the expense of style, and a low cost to the workman consumer who had to use them.

3. Distribution has been through entirely different channels than Men's Clothing ..... The work Clothing departments of wholesale dry goods houses, chain stores, and main order houses, and through the retailer of work clothing and the rural merchant.

4. As use of these garments is confined to limited seasons of the year, need flexibility in hours at peak seasons".(*)

The following is an analysis of Mr. Louis Cohen's statement:

"Manufactures overcoats, mackinaws, melton jackets. In clothing business for past twelve years, employs ninety-seven persons, continuous employment forty-eight weeks, sixty-five of the employees have been with the firm eight or ten years. Pre-Code worked forty-nine and a half hours. 1929 Volume of Business $25,000; 1932 - $188,000; 1933 - $237,000; first five months 1934 - twenty percent increase over 1933.

"An overcoat is an outer garment made of wool and part wool fabrics, worn for protection against the elements.

"A mackinaw is an outer garment made of wool and part wool fabrics, worn for protection against the elements.

"The material in their mackinaws is very often inter-changeable with the material used in their overcoats.

(*) Letter from H.A. Spehn, Chairman, Rough Outdoor Garment Group, National Work Clothes Manufacturers Association, to Wm. P. Farnsworth. Transcrip of Hearing on Men's Clothing, Cotton Garment, and Dress Manufacturing Industries, June 20, 1934, Supplement No. 1, Page 1.

"The majority of consumers, if they buy a mackinaw, will not buy an overcoat.

"A melton jacket is an outer garment made of the cloth from which it derives its name, which is a smooth-finished all wool and part wool cloth, comparable to the cloth used for overcoats and mackinaws, and is worn largely for the same purpose as overcoats and mackinaws, that is, for protection against the cold. It is generally made into a blouse effect, and very often has a zipper instead of buttons; it is shorter than a mackinaw, and in order to fit tightly about the waist, a knit-bottom is sewed on, or the bottom is provided with straps. It is used by the consumer for fishing, outdoor sports, hunting and golfing. A large proportion of the population in their sales territory wear melton jackets as a substitute for mackinaws and overcoats, and in the last few years, the younger element, students, prefer melton jackets.

"Since the Cotton Garment Code went into effect (in November, 1933) their melton jackets have shown price resistance, because retailer can buy cheaper from those manufacturing under the Cotton Garment Code.

Product	Production			
	1929	1932	1933	1934
Overcoats	100%	60%	80%	90%
Mackinaws & Melton - Jackets	--	40%	20%	10%

"Before the depression this firm made one hundred percent overcoats. When depression lessened purchasing power of the consumer, they had to start manufacturing mackinaws. In 1932, mackinaws and melton jacket comprised nearly fifty percent of their business." (*)

An analysis of the statement of Julius C. Morse, President of Leopold Morse Company, Boston, Mass., follows:

"This company manufactures clothing and distributes through eight retail stores in New England, fully or partly-owned. Overcoats retail from $15.00 up; while

(*) Statement of Louis Cohen, of Cohen Bros. Milwaukee, Wisconsin, Transcript of Hearing, Men's Clothing, Cotton Garment, and Dress Manufacturing Industries, June 20, 1934, Volume 3, Pages 678-68.

mackinaw is made of the same cloth, and in reality is nothing but a different type of overcoat. They are sold to customers who come into the stores looking for lower-priced overcoats.'

"In their stores they display in the same section single pants of all wool, part wool, and 100% cotton content. They manufacture some of their woolen pants, but buy all the cotton, much cheaper than they could afford to make them under the Men's Clothing Code. The cotton sanforized trousers sold in their stores are not sold to men who use them for work purposes--they are sold in conjunction with knickers, flannel trousers, or garments used for sport purposes.

"If mackinaws were under the Men's Clothing Code, I do not think it would affect the retail price over $1.00 in those now made under the Cotton Garment Code.'" (*)

A resolution of the New York Sheeplined and Leather Clothing Manufacturers, dated June 14, 1934, was read by Mr. Greef:

"New York manufacturers constitute a large percentage of the entire industry and existing piece rates in New York City are up to 50% higher than those under the Cotton Garment Code. Very little cotton in the garments. That conditions in these firms are in line with those provided for under the Men's Clothing Code --Resolved that they be brought under the Men's Clothing Code."

Mr. Greef also read a quotation from the Daily News Record of August 5 (1933):

"The National Association of Sheeplined and Leather Garment Manufacturers, Inc., is composed of 53 firms, employing 4,000, volume $10,000,000 annually. Cotton constitutes a very small component value in the manufacture of their garments. A basic horsehide garment contains--one yard all wool plaid lining, 26 feet horsehide leather, 1/2 yard cotton sleeve lining and pocketing, 1/2 dozen bone or composition buttons, and 1 metal buckle. Actual value of cotton content, 2% of materials used, is 12 cents." (**)

(*) Transcript of Hearing on Men's Clothing, Cotton Garment, and Dress Manufacturing Industries, June 20, 1934, Volume 3, Pages 682 to 684.

(**) Transcript of Hearing on Men's Clothing, Cotton Garment, and Dress Manufacturing Industries, June 20, 1934, Volume 3, Page 685 to 692.

The following letter to Congresswoman Florence P. Kahn, from Eloesser-Heynemann Company, of San Francisco, California, one of the representative Pacific Coast manufacturers, was filed at this hearing.

"Your telegram of June 11th requesting facts and arguments for the hearing before the NRA administrator on the Cotton Garment Code has already been anticipated to a great extent by my letter to you of June 8th.

"The proposed changes will result in very much higher costs of manufacture. Costs to the consumer of manufactured articles have already advanced very much faster than his earning power. The result is that retail trade is at the present time very seriously affected and retailers are commencing to lay off employees. Similarly the retailers' purchases from manufacturers, even at current levels, have shown a very important falling off. The small orders placed with manufacturers indicate that the present rate of manufacture will not be maintained, which involves lay-offs and more unemployment. To ignore this situation and insist on a procedure which will very materially increase costs and will materially further raise prices to the consumer is simply suicidal.

"The argument is frequently presented by the Clothing Code that the increased rates which exist under their Code will not make an important difference in the cost of work garments. This argument is inconsistent with the presentation that they cannot meet the competition from work clothing garments if they are not manufactured on the same basis as clothing.

"It is a well recognized practice among retailers to operate at specific retail prices, which produce the best volume of business. To use an illustration: Corduroy Pants are being sold for $2.95. Manufacturers naturally are furnishing the best product that will fit into this retail price. They are forced by competition to sell on a close margin and any additional cost must increase the wholesale price. The retailer is already paying the highest wholesale price at which he can maintain a re-sale of $2.95. Any increase in his wholesale price will involve an increase in the retail price. There is no satisfactory retail price between $2.95 and $3.50. In other words, the change of Corduroys from the Cotton Garment Code to the Clothing Code will increase the price of the $2.95 Corduroys to at least $3.50. This garment formerly sold for $2.45 and work men's wages have not been advanced sufficiently to enable them to pay $3.50 for garments which formerly cost them $2.45.

"The State of California has 185 factories manufacturing all cotton garments, and ranks sixth among the States of the Union in the number of plants. The products of its factories are greatly diversified, a condition made necessary by the relatively sparse population. While a factory with a sufficiently large output in different lines can be segregated into departments, each department operating under separate Codes, it is not practicable for the same operators in one department to work on a variety of items under separate Codes with conflicting provisions. The large eastern plants would therefore be only too well pleased to deprive the smaller institutions in California of the opportunity for existence, by denying them the right to manufacture any of the various products which are used in their own community, under the only conditions which are practicable under the circumstances.

"The Cotton Garment Code Authority has as its director, Colonel E.B. Paddock. I have advised Colonel Paddock that he can count on your support, and have requested him to place the data of the Cotton Garment Code Authority at your disposal.

"I want again to express the very sincere appreciation of every member of our industry for the interest that you have taken in this extremely important cause."

III. Post Hearing Developments prior to the Approval of the Amendment

A. Letters of Protest from Cotton Garment Industry

Definite action by the Administration on the proposals presented at these hearings was delayed for two months until August 21, 1934. Great numbers of protests from all brances of the Cotton Garment Industry were received. The following letters from the Berne Manufacturing Co., Berne, Indiana, are indicative of the general feeling of many industry members:

"Your letter of June 13 in answer to my letter of June 8 was relaid from my office to the New Yorker Hotel in New York City, but unfortunately Uncle Sam failed to deliver the mail to me on time and it wasn't until this morning that it was returned to me here at home.

"I, of course, regret now that I didn't get a chance to chat with you in the quiet way which you suggested. It was my personal feeling all through the Washington hearing that publicity given to the cause would do very little good and possibly a lot of harm to everyone concerned.

"I think we get a great deal more done when we can sit down quietly to discuss our problems without any feeling of antagonism and rivalry. It is then that we do our best work.

"In the future, if it is at all possible to work these things out without a lot of fever and demonstration, I feel that the industry could be saved a tremendous amount of money and time which is now being squandered. Any number of manufacturers who came to Washington at the last hearing went away in disgust. All they could do was to listen to a lot of things that seemed utterly foolish to them - express their private opinions among each other - and then go home after spending from $150.00 to $300.00 or $400.00.

"The National Recovery Administration cannot afford to alienate the cooperative sentiment of the rank and file manufacturers in this country in any industry. After helping to formulate our code from the very beginning, I can truthfully say that up to the recent hearing, most manufacturers talked, argued, and operated in favor of our code. There is practically no objection to control of hours and wages and to the elimination of dishonest business practices. But when the administration tries to go farther or when it imposes impractical regulations with respect to hours and wages, or with respect to the natural association of manufacturers, then the Administration breeds

stubborn resistance which will lead to wholesale non-compliance. If you will re-read my brief which I presented at the hearing, I believe you will get a pretty fair slant, not only at the background which has brought us to the point where we are today, but also to the sentiment that exists in the industry when impractical, unworkable rules and regulations are forced upon our industry.

"It is undoubedly true that our present code is somewhat in conflict with two or three other apparel codes. However, it isn't our fault that these other apparel codes are operating under rules and regulations quite different from ours. Personally, I feel they originally should have had the same hour and wage regulations that we have. Because they haven't, they shouldn't ask our association now - at this particular moment - to make the changes that are bound to lead to higher prices when the public already is on a buyers strike. Personally, I feel that our industry will be ready to cooperate with the other apparel industries a year from now in building a more uniform set of codes which comply with the new regulations that will be made by Uncle Sam at the expiration of the present NIRA act. With two years of experience, Uncle Sam will be in position to write a basic law which will remove some of the argumentative details while he retains the practical and the workable.

"Everything should be done to retain the gains we have registered. These must not be lost. If at all possible, we should yet see to it that prison competition is completely eliminated. Then the foundation will have been laid to reconstruct the Utility Garment Industry on a healthy foundation."*

"In reviewing the recent past in Washington, a few reflections might be of interest to you.

1. The most unfortunate impression during the Code proceedings was that both the Administration and the Labor Board lacked the conviction of downright honesty of purpose. It seemed more a question of getting answers favorable to a preconceived solution that it was getting at the truth. The Administrator showed impatience with any adverse testimony given by the manufacturers, but showed consistent deference to the gentlemen of the Labor Board. Without honesty of purpose we can never develop the enthusiasm which alone can give us the strength to cope with a great problem.

2. Contrary to the statistics, the re-employment in the Cotton Garment Industry was not ZERO. The Cotton Garment Industry is carrying the cotton farmers, has absorbed the pro-

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(*) Letter dated June 28, 1934, from the Berne Manufacturing Co., Berne, Ind., to Morris Greenberg, Deputy Administrator. (Cotton Garment Code Files.)

cessing tax in its market and is therefore contributing to employment, even if it is only employing the farmers to plow their cotton under the ground.

3. The relation of Price Increase of cotton garments to the increase in the Purchasing Power of the cotton garment consuming public has not been dwelled upon sufficiently.

"If there was $100.00 available for cotton garments in 1932 and garments cost $1.00 each, then of course the $100.00 bought one hundred garments. In 1934 purchase Power as a whole rose 7%. We had therefore, $107.00 to spend for cotton garments. But the price of cotton garments rose 55% and cost therefore $1.55 instead of $1.00 as before. Consequently, the $107.00 will buy only sixty-nine garments now, whereas one hundred garments were bought before. This is the strongest argument, why the industry cannot take on any more parasites at this time.

4. A workman buys his work garments first and then his dress garments. The more he has to pay for his work clothing the less he has left for his dress clothing. Therefore, by merging the two industries, the cotton garment industry would be choked, without in the least helping the wool clothing industry.

5. What the Industry needs most is confidence and self-assurance to complete the process of adjustment. The strike threat has the most devastating influence upon the spirit of enterprise so necessary today. Some New York Labor Leaders seem to preach a kind of class hatred which is entirely foreign to the rest of the country which is striding in the direction of an industrial democracy. Only by peaceful co-operation and mutual support can we reach the portals to a new day. The true mission of LABOR today is to help in this spirit of mutual support.

6. The first aim of Labor is a sense of security and permanency of income. That is something to build on, homes and life itself.

"In the second instance, Labor wants a high income, that is high wages and short hours.

"If the second aim is overstressed out of keeping with the advance of the times, the first and much more important goal might be lost forever." (*)

(*) Letter enclosed with above letter of June 28, 1934, to Mr. Greenberg. This letter is from F. A. Schmidt to Mr. C. T. Habegger, of the Berne Mfg. Co., Chairman Indiana-Ohio Mfg. Association, Berne, Ind., dated June 26, 1934. (Cotton Garment Code files.)

B. Deputy Administrator Dean G. Edwards' Letter of Recommendation of the Amendments

After many post-hearing conferences, and in view of the pronounced hostility of the Cotton Garment manufacturers, it was deemed advisable to make no further changes in definitions affecting the three Codes at this time. Equalization of hour provisions was believed to be imperative, and it was decided to place the Cotton Garment Industry upon a 36-hour basis, in spite of the refusal of the Code Authority to approve such changes.

Deputy Administrator Dean G. Edwards submitted the following letter of recommendation with the proposed amendment to General Johnson, under date of August 8, 1934:

"Submitted herewith is a report on a Public Hearing held June 18, 1934, to June 22, 1934, inclusive, called to consider amendments to three codes of fair competition, namely: the Cotton Garment Code, the Dress Code and the Men's Clothing Code. At this hearing which were these amendments to the Code of Fair Competition for the Cotton Garment Industry.

"The following papers are included in this transmittal:

Report of the Industrial Advisory Board
Approval of the Labor Advisory Board
Report of the Consumers' Advisory Board
Report of the Legal Division
Report of the Research and Planning Division
Notices of Public Hearing and Amendments on which hearing was called
Code as approved November 17, 1933, and subsequent amendments
List of witnesses
Assent of the Code Authority to amendments except Section A of Amendment II and Sections A and B of Amendment III.

"It will be noted that the Code Authority in their letter of assent approved the amendments with the exception of the ones relating to hours and wages. We are recommending the imposing of a thirty-six hour work week (Section A of Article III) with no reduction in the weekly wage (Sections A and B of Article IV).

"The hearing showed no material reemployment by this industry subsequent to the effective date of the Code, which contained a

provision arbitrarily fixing a work week of forty hours. The forty hour work week of the Cotton Garment Industry Code has resulted in unfair competition between members of the apparel industry under it and members under other apparel codes which have provisions for thirty-five and thirty-six hour work weeks. Section A and B of Article IV provided for the maintaining of the same weekly wage as is provided in the original Code.

"The Industrial Advisory Board suggests a thirty-eight hour week instead of thirty-six hours, with a proportionate increase in the basic wage. I believe that the reduction of hours from forty to thirty-eight would not effectuate the elimination of unfair competition. The Industrial Advisory Board recommended that the Sheep-Lined and Leather Garment Manufacturers be exempted from any hour and wage change owing to the extreme seasonal character of their industry. The hour change is subject to modification by the Industrial Committee. The extreme seasonal character of these industries is not a sufficient reason for granting a lower wage rate for these particular items which are in competition with products of other apparel industries.

"The Legal Division in its memorandum of approval recommended that the 'amendments be divided into two groups, one which will be imposed by the President and the other which will be assented to by the Industry and signed by the Administrator.' The amendments are so inter-locked that it is considered not advisable to separate them. The 10% limitation of handicapped workers has been eliminated from the amendment.

"The Research and Planning Division contends that the Industrial Committee established by proposed Amendment V (referred to as Amendment #7) could grant exemptions from any provisions of the Code and this would constitute a delegation of an important function of the Code Authority without provision for maintaining balanced consideration. The objective sought by this amendment is to establish a method whereby necessary exceptions and exemptions may be handled judiciously and with speed. A sufficient check is maintained since not only the Code Authority has complete notice of all actions taken by the Industrial Committee, three of whose members are nominated by the Code Authority itself, but also the Administrator has reserved the right of disapproval within five days before its rulings become effective, subject thereafter to the further order of the Administrator.

"The comment concerning exceptions which may be granted by the Industrial Committee in case of undue hardship up to forty hours has been considered and this power of exception is included in Section A of Article III.

"No material changes were made in the amendments since the receipt of the approval and reports of the various Advisory Boards, the Legal and Research and Planning Divisions and the Letter of Assent of the Code Authority.

"I analyze said amendments and find as set forth in the enclosed draft of a letter to be transmitted by you to the President said analysis and findings being incorporated herein by reference. Said amendments are accordingly recommended for your approval." (*)

IV. Effects of Amendment No. 7

A. 36-Hour Week as of October 1, 1934, Approved for Cotton Garment Industry.

On August 21, 1934, this amendment was officially approved, placing the Cotton Garment Industry (as of October 1, 1934) on a 36-hour week basis, with minimum weekly wage rates of $12.00 in the South and $13.00 in the North, and raising the piece rates by not less than 10%.

This equalization of hours, and corresponding increase in Cotton Garment Code minimum wages, should have been a most important factor in the settlement of the unfair competitive situation on pants and wash suits, for it was estimated that the difference in wages paid to operators under the Clothing Code and under the Cotton Garment Code (except for cutters and pressers) now only amounted to 2/3 of 1 cent per hour in the South and 8/9 of 1 cent in the North.

See Memorandum from Burton E. Oppenheim to M. D. Vincent, dated April 17, 1935 (copy of which will be found on page 194 of this Appendix.)

B. Two Stays Issued, Delaying Effective Date to Dec. 1, 1934.

However, due to the flood of protests and objections from the Cotton Garment Industry, including an injunction suit filed by a group of manufacturers seeking to restrain the National Recovery Administration from enforcing the 36-hour week, the Administration on September 28, 1934, issued Administrative Order No. 118-132, staying the wage and hour provisions of the new amendment until October 15, 1934, and on October 12, 1934, issued a further Order (No. 118-135) staying these provisions until December 1, 1934.

Therefore the net result was actually no real improvement in this jurisdictional conflict during this whole period.

(*) Letter dated August 8, 1934, to General Hugh S. Johnson, Administrator, from Dean G. Edwards, Deputy Administrator, approval recommended by William P. Farnsworth, Acting Division Administrator. (Cotton Garment Code files, under Amendment No. 7.)

CHAPTER VII

DEVELOPMENTS FROM AMENDMENT NO. 7 TO SUPREME COURT DECISION, MAY 27, 1935.

I. Progress Up To December 1, 1934.

A. Correspondence re Overlap Settlement (in September)

Deputy Administrator Morris Greenberg was spending the major portion of his time on this particular problem, and as a result of his suggestion, Deputy Administrator Burton E. Oppenheim, now in direct charge of this overlapping conflict, write on September 15, 1934, to Col. R. B. Paddock, of the Cotton Garment Code Authority, and George L. Bell, of the Men's Clothing Code Authority, as follows:

> "It has been suggested that the conflict over jurisdiction over the manufacture of pants be settled by a decision along the following lines:
>
> "All pants made in clothing factories shall be subject to the Men's Clothing Code; all wool and part wool pants and any cotton pants made in conjunction with wool or part wool pants shall be made under the Men's Clothing Code; all cotton pants not made in conjunction with wool or part wool pants shall be made under the Cotton Garment Code.
>
> "I would like to have your comments on this matter as quickly as possible." (*)

Colonel Paddock replied as follows:

> "This will acknowledge receipt of your letter of September 15th, in reference to a conflict over jurisdiction in the manufacture of pants.
>
> "The solution as suggested in your letter is now being taken up with the members of this Industry, and I will give you a decision thereon as quickly as possible.
>
> "In this connection we would like to call your attention to the agreement which was finally reached after much controversy between the Cotton Textile Industry and the Woolen Textile Industry in reference to the over-lap of the various types of fabrics manufactured by both If you will review this compromise and agreement you will

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(*) Letter dated September 15, 1934, to Colonel R. B. Paddock, Executive Director, Cotton Garment Code Authority, from Burton E. Oppenheim, Assistant Deputy Administrator. (Cotton Garment Code files).

discover that the same fabrics upon which this agreement was reached represent those fabrics that are used respectively in the Men's Clothing Co e and in the Cotton Garment Code. Please also note that the wool-back and other similar fabrics, and other low-grade fabrics represent those which are employed in our Industry in the manufacture of work clothes, and it would seem that an adoption of this agreement above referred to could be well made to apply to the controversy existing between our Industry and the Clothing Code, in reference to pants. Please give me your reactions on this matter." (*)

However, the Cotton Garment Code Authority apparently took no action whatsoever on the proposal, as Deputy Administrator Oppenheim, on October 29, 1934, wrote Colonel Paddock again, as follows:

"Some time ago I submitted to you a proposed ruling to be issued by the Administration in the matter of jurisdiction over the manufacture of cotton and wool pants. You were to confer with members of the Code Authority who were interested in this matter and advise me concerning the same.

"I believe that this proposed order should settle the matter in a very fair manner and I also feel that any order disposing of this question should be issued prior to December 1 so that necessary adjustments by the manufacturers can be made before that time and the matter settled concurrently with the wage increase which will go into effect on December 1.

"While I should be very glad to discuss this at greater length, I must point out that it is necessary to act promptly on this situation. Therefore, unless I hear from you to the contrary, I will assume that this arrangement is satisfactory to you and will proceed accordingly." (**)

B. Order Suggested by Deputy Administrator Greenberg, October 12, 1934.

Then, on October 12, 1934, Deputy Administrator Greenberg submitted a report, recommendation, and suggested Order, as follows:

(*) Letter dated September 18, 1934, to Burton E. Oppenheim, Assistant Deputy Administrator, from Col. R. D. Paddock, Executive Director, Cotton Garment Code Authority. (Cotton Garment Code files).

(**) Letter dated October 29, 1934, from Burton E. Oppenheim, Assistant Deputy Administrator, to R. D. Paddock, Executive Director, Cotton Garment Code Authority. (Cotton Garment Code files).

"If group (a) returned to their former status of strictly one pants suit and overcoat manufacturers, there would be no problem between (a) and (b).

"If group (b) could be brought back to the long established practice of confining the main production to woolen trousers, the placing of group (b) in the Men's Clothing Code might solve the situation by putting woolen production under the Men's Clothing Code and cotton production under the Cotton Garment Code.

"Within the last ten years group (a) by entering into the production of two pants suits and the by-product of single pants has absorbed a certain outlet that the special dress pants manufacturer formerly enjoyed. Therefore, group (b) was forced to enter into the production of other products and naturally turned to cotton pants and slacks for summer and sport wear. Group (a) must, therefore, assume its share of the responsibility for the present condition and take its share of the consequences.

"Many of the manufacturers in group (c) known by general classification as work clothing manufacturers have in the past ten years been forced by developments within this period into further diversifying their lines and within the controlling elements of their methods of production and distribution have made not only wash pants and slacks for summer and sport wear but also a small per cent of woolen pants.

"To arbitrarily lay down the natural line of demarcation between woolen and cotton will not cure the competitive condition and will not force the manufacturers back into their old confined lines of production because the effect of the developments in the last ten years are more forceful than any provisions given the effect of law in a Code if those provisions are contrary to and do not take into consideration these developments. The effect would be to make such provisions unworkable, unrecognized and unenforceable.

"It would, therefore, be more advisable and practicable to recognize conditions as they are, equalize the competitive situation between the three groups from the standpoint of labor costs and provide that the two groups (b) and (c) which are highly competitive from the standpoint of distribution be governed by one set of rules and regulations as far as Code of Fair Competition is concerned.

"Due to the fact that the larger portion of the production of groups (b) and (c) is from cotton fabrics and made for occasional and utility outerwear, groups (b)

(Report of Morris Greenberg)

"We have three positions to be reconciled.

"(a) Manufacturers operating under the Men's Clothing Code--that is, the manufacturer who makes men's suits, two pants suit, and off trousers as a by-provudt all within the same organization.

"(b) The heretofore so-called exclusively dress pants manufacturers who make a fairly large per cent of their production in wool trousers of the so-called better grade and also make a large per cent of their production in better grade cotton wash pants, knickers, for more or less sport wear and who also make corduroy and other cotton slacks.

"(c) The manufacturers of so-called work pants and medium priced pants almost entirely ouf of cotton and in addition makes cotton wash pants, corduroy slacks, other trousers suitable for sport and summer wear besides a general line of work clothing.

"Group (b) enters into competition with group (a) with a finer grade wollen trouser. Group (b) also enters into competition with group (c) in the manufacturing and distribution of cotton wash pants, corduroy slacks, etc., for sport and summer wear. Group (c) does not enter into competition with group (a) although group (c) does produce and manufacture a small per cent of woolen trousers.

"What do the various groups want?

"Group (a) desires to bring group (b) under the Men's Clothing Code because of the woolen pants production. Group (b) desires to operate under the Cotton Garment Code because of their large percentage of cotton pants production, Group (b) also desires to eliminate group (c) entirely from the production of woolen pants. Group (b) further desires that if it is brought under the Men's Clothing Code to force, if it can, all group (c) under the same regulations. Group (c) whose production is chiefly cotton, desires to remain under the Cotton Garment Code and for a further reason many in group (c) also include in their production other types of garments and pants, such types coming under the jurisdiction of the Cotton Garment Code.

"The competitive situation between the three groups must be equalized as far as any unfair conditions exist. Further, the confusion caused by a manufacturer operating under two or more Codes must be eliminated.

and (c) is from cotton fabrics and made for occasional and utility outerwear, groups (b) and (c) should be governed by the Cotton Garment Code. A plan of equalizing labor costs of groups (a) and (b) and (c) with the so-called men's clothing manufacturers is outlined herewith. This plan perhaps with minor variations should satisfy all parties concerned if competitive interest of the manufacturers and mutual interest of labor govern the arriving at a final equitable decision.

"Men's Pants Classification

Suggested Differentials

"Cutters and Pressers

1 - Manufacturers on 100% cotton production--Cotton Garment rates (*)

2 - Manufacturers having up to 10% wool production
South - Minimum $14.00
North - " $15.00
(Pro-rated on present minimum rates of both Codes)

3 - Manufacturers having over 10% wool production and up to 50%
Operate at 75% of Men's Clothing Code for wages, Cotton Garment Code for hours.

4 - Manufacturers whose production is 50% or above operate at Men's Clothing Code rates.

"Operators

1 - Manufacturers on 100% cotton production--Cotton Garment rates (**)

2 - Manufacturers having up to 10% wool production
Cotton production - South $12.00 per 36-hour week
North $13.00 per 36-hour week
Wool production - Same as Men's Clothing Code for wages, Cotton Garment Code for hours.

3 - Manufacturers whose production is 10% and above (wool)
All production on the basis of Men's Clothing Code rates (***)

(*) For hours and wages

(**) For hours and wages

(***) For hours and wages

"Manufacturing Employees Classified as Examiners, Bundlers and Sorters (excluding Trimmers) - Workers Not Usually on Piece Rates

1 - Manufacturers on 100% cotton production--Cotton Garment Code rates (*)

2 - Manufacturers having up to 10% wool production
All production on the basis of South $12.00
North $13.00

3 - Manufacturers whose production is 10% wool production and above
All production on the basis of Men's Clothing Code rates (**)

"Suggested Clauses to be Covered in the Executive Order.

1 - That the manufacturer shall keep his records in such a manner that the Code Authority may readily determine at any time his percentage of wool pants production on the basis of units sold.

2 - That there be used for this purpose an "F" label with the title "wool pants division" stamped thereon, same to be used on all wool or part wool pants.

3 - That within 60 days after the effective date of this order, every manufacturer of pants shall report the approximate percentage of wool or part wool pants production and cotton pants production to the Code Authority for the purpose of determining what classification the manufacturer belongs under.

"Order

"Code of Fair Competition

for the

Men's Clothing Industry

and

Cotton Garment Industry

"(1) All pants manufactured in plants now operating under the Code of Fair Competition for the Men's Clothing Industry shall be manufactured under the terms and provisions of the Men's Clothing Code.

(*) For hours and wages

(**) For hours and wages

"(2) All wool and part wool pants and any cotton pants made in conjunction therewith in the same shop shall be made under the terms and provisions of the Code of Fair Competition for the Men's Clothing Industry.

"(3) All cotton pants not made in the same shop with wool or part wool pants, or in clothing factories now operating under the Men's Clothing Code, shall be made under the terms and provisions of the Code of Fair Competition for the Cotton Garment Industry.

"(4) This order shall become effective thirty (30) days from the date hereof, during which period all manufacturers of pants operating under the Cotton Garment Code shall file with the Administration, upon notification from the Code Authority of that Industry, a record of their intention with respect to the future manufacture of pants in accordance with the provisions of this order, and such manufacturers shall state whether they will manufacture wool or part wool pants or all cotton pants in their plants.

"(5) The wage provisions as to the manufacture of pants in the Men's Clothing Code are hereby stayed for a period of sixty '60) days from the date hereof, as applied to the minimum rates for off-pressers and cutters, and it is hereby ordered that during this period the minimum rate for those occupations shall be 75 per cent of the wage rate provided for such workers in the Code of Fair Competition for the Men's Clothing Industry.

"(6) It is further ordered that during this period a Commission shall hereby be established for the purpose of investigating the wage scales which shall apply to off-pressers and cutters and that such Board shall report to the National Industrial Recovery Board within sixty (60) days from the date hereof its recommendations as to the proper wage scales, upon which recommendations the National Industrial Recovery Board shall determine the wage rates to be paid to off-pressers and cutters. The board shall be composed of the following:

"One member to be nominated by the National Association of Pants Manufacturers.
One member to be nominated by the Labor Advisory Board of the National Industrial Recovery Board.
An impartial chairman to be agreed upon by the two hereinabove named, provided in the event that the two above named shall fail to agree on an impartial chairman, the National Industrial Recovery Board shall appoint the impartial chairman.

"Expenses of the Commission herein created shall be borne by the Men's Clothing Code Authority."

Assistant Deputy Administrator Oppenheim was making very strenuous attempts to draw up some sort of ruling which would be agreeable to all parties, and held many conferences with the Cotton Garment pants manufacturers. Under date of October 11, 1934, Mr. Lester F. Rosenbaum, of the Kalamazoo Pants Co., Treasurer of the Associated Pants Manufacturers, wrote the following to Assistant Deputy Administrator Oppenheim:

"***Since returning home I have given a good deal of thought to the matters we discussed in Atlantic City, and am more firmly of the opinion than ever that a decision which would take any pants manufacturers out of the Cotton Garment Code Jurisdiction for any part of their production would be quite unworkable and almost impossible of enforcement.

"If the President's executive order of 36 hours does go through (and I have every reason to believe that it will go through), it seems to me that with the exception of the cutters and pressers every item of possible unfair competition will be eliminated. If you would then have inserted into the Cotton Garment Code the minimum wage for cutters and pressers for pants people who make anything with wool in it, and insist that a special label be developed for the use only of these people, a portion of whose production is wool or part wool goods, I think you will have solved the problem so that the Clothing Code cannot have any further arguments to the effect that there is unfair competition.

"With the President's new order the difference in rate between the Codes would only be the difference of 37¢ an hour against 36.11¢ per hour, which is certainly negligible, not even worth talking about, and could not in any way make for unfair competition.***"(*)

(*) Letter dated October 11, 1934, from Lester F. Rosenbaum, Kalamazoo Pants Co., Kalamazoo, Mich., to Assistant Deputy Administrator B. E. Oppenheim. (Cotton Garment Code files).

C. Proposed Order Drawn by Deputy Administrator Oppenheim. November, 1934

It was hoped that something could be accomplished shortly after December 1st, when the Cotton Garment hour reduction was to go into effect, and a conference was held in Washington in November, attended by the representatives from both Industries who were most interested in this pants question. As a result of this Conference, Assistant Deputy Administrator Oppenheim drew up the following proposed Order authorizing amendments to both Codes:

"Order Approving Amendments to the Code of Fair Competition for the Men's Clothing Industry and to the Code of Fair Competition for the Cotton Garment Industry

"Hearings having been duly held in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, in connection with amendments to the Codes of Fair Competition for the Men's Clothing Industry and for the Cotton Garment Industry, and the annexed report on said amendments containing findings with respect thereto having been made and directed to the President:

"Now, therefore, on behalf of the President of the United States, the National Industrial Recovery Board, pursuant to authority vested in it by Executive Orders of the President, including Executive Order No. 6859, dated September 27, 1934, and otherwise does hereby incorporate by reference said annexed report and does find that said amendments and the Codes as constituted after being amended comply in all respects with the pertinent provisions and will promote the policies and purposes of said Title of said Act and that such amendments be and they hereby are approved and that the previous approval of said Codes is hereby modified to include an approval of said Codes in their entirety as amended; such approval to take effect thirty days from the date hereof unless good cause to the contrary is shown to the said National Industrial Recovery Board prior to that date and said Board does issue a subsequent Order to that effect provided that during such period all manufacturers of pants shall file with said Board a record of their intention with respect to the future manufacture of pants in accordance with the provisions of this Order, specifically stating whether they will manufacture wool or part wool pants or pants of 100% cotton in their plants. Such record may at the option of the individual manufacturer of pants, include an election to be governed immediately by the Code of Fair Competition for the Men's Clothing Industry; and

"Provided further, that Article II, Section (a) of the Code of Fair Competition for the Men's Clothing Industry be and it is hereby stayed for a period of sixty days from the effective date hereof as to all manufacturers of pants on condition that in the interim all manufacturers of pants governed by the Code of Fair Competition for the Men's Clothing Industry pay to off-pressers and cutters not less than sixty per cent of the wage rate provided for such workers in said section; and

"Provided further, that for said period of sixty days, such manufacturers of pants as were governed by the Code of Fair Competition for the Men's Clothing Industry prior to the effective date of this Order were governed by the Code of Fair Competition for the Cotton Garment Industry, may employ learners in accordance with Article IV, Section (c) of the Code of Fair Competition of the Cotton Garment Industry; and

"Provided further, that at the termination of said sixty-day period manufacturers of pants governed by the Code of Fair Competition for the Men's Clothing Industry shall employ learners in accordance with such terms and conditions and shall pay off-pressers and cutters not less than such minimum rates as shall be established by the National Industrial Recovery Board upon recommendations of a Committee of three impartial persons who shall be appointed immediately for the purpose of investigating the conditions under which learners should be employed and the minimum rates of pay which should apply to such off-pressers and cutters.

"National Industrial Recovery Board
by _____
W. A. Harriman
Administrative Officer

"Approval Recommended:

_____
Prentiss L. Coonley
Acting Division Administrator

Washington, D. C.
November , 1934."

The amendments proposed are as follows:

"Amendment to the Code of Fair Competition for the

Men's Clothing Industry

Amendment II

"Article XIII is amended by adding thereto a new section to be known as Section (h) and to read as follows:

"'There shall be forthwith constituted a Divisional Code Authority to be known as the Divisional Code Authority for the Pants Division of the Men's Clothing Industry, to consist of seven members or such larger number as may be approved by the National Industrial Recovery Board. Two of the members of such Divisional Code Authority shall be selected by the Association of Pants Manufacturers of America, one by the National Association of Men's and Boy's Pants Manufacturers, two by manufacturers of pants subject to the Code who are not members of such associations pursuant to a fair method of election approved by the National Industrial Recovery Board and two labor representatives by the Labor Advisory Board of the National Industrial Recovery Board, one of which labor representatives shall be selected from the Amalgamated Clothing Workers of America and one from the United Garment Workers of America. Such Divisional Code Authority shall have all the powers and duties with respect to the Pants Division of the Industry as the Men's Clothing Code Authority has with reference to the balance of the Industry, provided, however, that all recommendations to the National Industrial Recovery Board shall be first submitted to the Men's Clothing Code Authority for its recommendation which shall in all cases be submitted to the National Industrial Recovery Board, together with the recommendation of the Divisional Code Authority for the Pants Division. Such Divisional Code (Authority) shall use the facilities of the Men's Clothing Code Authority to the extent that may be found practical." (*)

(*) Draft of Proposed Amendment to the Men's Clothing Code (November, 1934)

"Amendment to the Code of Fair Competition for the

Cotton Garment Industry

"In Article II, Section (a) of said Code,

Item 1 - The words 'work pants' are stricken out and in the same Article and Section,

Item 10- The words, 'when made in work clothing factories' are stricken out and the words 'of cotton containing no wool when manufactured in a shop in which there are not manufactured any wool or part wool pants' are inserted."(*)

"Amendment to the Code of Fair Competition for the Men's Clothing Industry

Amendment I

"The first paragraph of Article I of the Code shall be amended to read as follows:

"The term 'clothing Industry' as used herein is defined to mean the manufacture of men's, boys' and children's clothing, uniforms, single knee pants, single pants, (except cotton pants manufactured in a shop in which there are not manufactured any wool or part wool pants) and men's summer clothing (except men's wash suits of 100% cotton content when made in work clothing factories in conjunction with work clothing)." (**)

On November 27, 1934, Assistant Deputy Administrator Oppenheim wrote as follows to Mr. Rosenbaum, Mr. Drechsler, and others, enclosing copies of the suggested Order:

"I enclose herewith a copy of the Order Approving amendments to the Cotton Garment and Men's Clothing Codes, together with copies of these amendments, I also include a copy of an amendment to the Men's Clothing Code establishing a subdivisional code authority for pants manufacturers. This divisional code authority will, of course, have its own by-laws and regulations and will be able to

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(*) Draft of Proposed Amendment to the Cotton Garment Code (November, 1934).

(**) Draft of Proposed Amendment to the Men's Clothing Code (November, 1934).

make such arrangements with the Men's Clothing Code Authority as are agreeable to its directors. At the conference held in Washington I think that there was every evidence shown that all matters of this kind could be amicably worked out between all parties concerned.

"If you have any comments to make with reference to these I will be pleased to hear from you at your earliest convenience." (*)

II. Delay Due to Injunction Suit Filed by Certain Manufacturers

A. Letters from Associated Pants Manufacturers, Approving Proposed Order.

The Associated Pants Manufacturers, representing practically all the Cotton Garment semi-dress manufacturers, except those in the Southern Association, were apparently very well satisfied with these new proposals. Sidney S. Moyer, of the Moyer Manufacturing Co., Secretary of the Association, wrote to Mr. Oppenheim under date of December 1, 1934, as follows:

"I have the copies of the proposed order, and as far as I can see they are satisfactory except for the fact that the present injunction proceedings will have to be delayed, as we certainly cannot give our approval to this arrangement until we are one hundred per cent sure that those manufacturers of pants, regardless of what they are, are going to be under the same hour and approximate wage conditions that we are.

"I feel confident that you appreciate our position. I don't concur in the action that has been taken. I feel that it has been unwarranted, although the administration now has a swell chance to take some real action on the matter of prison labor, as if this was taken out of the hands of those seeking an injunction they wouldn't have a leg left to stand on. Certainly the competitive situation between the codes and the amount of work that has been done would not justify more than thirty-six hours.

"With kindest regards, I am,

"Very truly yours," (**)

Mr. Rosenbaum, Treasurer of the Association, wrote as follows:

(*) Letter dated November 27, 1934, to Lester F. Rosenbaum, Kalamazoo Pants Co., Kalamazoo, Mich., from Burton E. Oppenheim, Assistant Deputy Administrator. (Cotton Garment Code files.)

(**) Letter dated December 1, 1934, from Sidney S. Moyer Manufacturing Co., Youngstown, Ohio, to Burton E. Oppenheim, Assistant Deputy Administrator. (Cotton Garment Code Files.)

"Please pardon my delay in answering your letter of November 27th with enclosures of the proposed Orders and Amendments to be issued relative to the Pants situation. I was out of town from Wednesday of last week to Monday of this week and yesterday was quite busy, and wanted to give these various orders quite a little consideration before I wrote you my opinion of them.

"In the first place, let me say that in general the orders express exactly the results of the conference we had in Washington and in general I approve of them highly. There are a few matters, however, that I would like to take up with you before you go any further, if I may do so.

"In the Amendment which creates the divisional Code Authority you have our Association listed as the Association of Pants Manufacturers of America; whereas, the correct name of our Association is: Associated Pants Manufacturers of America. This is a minor point, but I am sure you will want to have the name of our association technically correct in the order.

"In the same Amendment you have set up the Code Authority with a certain composition; namely, tow members from the Associated Pants Manufacturers of America, (our association), one from the National Association of Men's and Boy's Pants Manufacturers, two from manufacturers of pants subject to the Code but who are not now members of such association, and two labor representatives, one to be a member of the Amalgamated and one to be a member of the United Union.

"In this particular set-up I can see some dangers to us. For instance, the two labor members and the member from the National Association of Men's and Boys' Pants Manufacturers will naturally lean toward labor because all of that New York group are working under the Amalgamated Union. Now, if you should happen to pick out as the other two members, manufacturers who don't belong to an Association, men who are also working in the New York market such as, for instance, Rose Brothers or people of that kind, you would no doubt have one or two more manufacturers who are working under the Amalgamated labor conditions and whose viewpoint would, therefore, be with the Union.

"It would seem to me that perhaps two more unaffiliated manufacturers should be added to the Code Authority and that the selection of these four unaffiliated manufacturers should be made on a geographical basis so that all sections of the country would be properly represented on this Code Authority, and of the four representatives to be selected I would suggest that only one of them should come from the New York, or in general the eastern metropolitan market. I believe you will understand my point in this regard.

"These are the only two technical suggestions that I have to make about approving the order. On the other hand, I feel quite confident that this order should not even be issued until there is some settlement made of the injunction proceedings which you, of course know about.

"As you know, only 31 manufacturers actually got this injunction,

but anyone else can join these 31 complaintants merely by asking to do so and by contributing a certain amount of money to the suit. If the injunction should be sustained and if 40 hours should be allowed under the Cotton Garment Code, it would be, of course, manifestly unfair to those of us who would be working under a 36 hour basis to have to compete with other manufacturers who are allowed to work on a 40 hour basis.

"I feel the same as Mr. Moyer in that I do not concur in the action that was taken with regard to the injunction and we have not added our names to the list of plaintiffs. At the same time, from the competitive standpoint, we certainly have to be careful that we don't get ourselves into a jam --the same kind of a jam which has been going on for the last year and a half.

"In other words, as Mr. Moyer has told you, we want to be absolutely certain that there are not going to be any slipups in this matter and want to be sure that every manufacturer of our class and kind will be working under the same conditions that we are working under.

"With kindest regards,

"Sincerely," (*)

B. Injunction Suit Filed December 1, 1934.

On December 1, 1934, a certain group of Cotton Garment manufacturers filed an injunction suit against the National Recovery Administration, seeking to restrain the enforcement of the new minimum wage and 36-hour week provisions.

C. Changes in Cotton Garment Code Authority

The N.R.A. removed six members who were parties to the injunction from the Cotton Garment Code Authority, and then set up a temporary administration of this Code Authority by the General N.R.A. Code Authority. These events threw the whole Cotton Garment Industry into turmoil, and eventually led to complete re-organization of the Code Authority.

D. Exemption Granted Associated Pants Manufacturers.

With the plaintiffs to the suit refusing to operate under the new wages and hours, it would be obviously unfair competition if other industry members were compelled to do so. Therefore, on December 7, 1934, the Associated Pants Manufacturers sent the following telegram, requesting exemption, to the Cotton Garment Code Authority:

"The members of the Associated Pants Manufacturers of America a duly constituted subdivision of the Cotton Garment Code Authority is being subjected to unfair competition by the plaintiffs in the injunction suit brought against the so-called thirty six hour order

(*) Letter dated December 4, 1934, from Lester F. Rosenbaum, Kalamazoo Pant Company, Kalamazoo, Mich., to Burton E. Oppenheim, Assistant Deputy Administrator.

stop As secretary of the Associated Pants Manufacturers of America I respectfully request on the part of our members exemptions from the provisions of this order until such time as the pending court action is settled." (*)

On December 9, 1934, Acting Deputy Administrator Oppenheim granted this exemption in a telegram sent to Mr. Moyer, Secretary, which read as follows:

"The Industrial Committee has granted your application for exemption which has been duly approved by N.R.A. to the extent that all members of your Association not plaintiffs in the injunction proceedings are exempted from the amendments of the Cotton Garment Code effective December 1, 1934, to the extent that they require an increase in hourly and piece rates of wages and provided that this exemption shall in no way affect or supersede any valid private agreement between employers or their representatives and employees or their representatives which may provide for higher piece or weekly rates of pay stop This exemption terminates automatically upon dissolution of the restraining order or injunction and is revocable at an earlier date by the National Recovery Administration stop Please notify us that you have notified your members affected by this exemption sending us a list of the members notified." (**)

Mr. Moyer, in the following letter dated December 10, 1934, advised Mr. Oppenheim that his Association had notified its members of the exemption granted, again mentioned their wish to get this controversy settled as soon as possible, and expressed their general approval of the suggested amendments of November 27, 1934:

"The enclosed wire was sent to our members this morning, and I attach herewith a list of these members.

"Of course, I am sorry to see this whole situation arise, and the exemption isn't going to mean much to a great many of our members, as they are paying over the minimum anyway. However, I feel that it is the advisable thing to do in view of the present situation: that the more requests for exemptions that are made will improve the position of the government in having the injunction dissolved.

"Am very anxious to get the matters settled so the pants problem can be solved as per the outline you sent me." (***)

(*) Telegram dated December 7, 1934, from Sidney S. Moyer, Secretary, Associated Pants Mfrs of America, to Industrial Committee Cotton Garment Code Authority Apparel Section, N.R.A., Department of Commerce Bldg.

(**) Telegram dated December 9, 1934, to Sidney S. Moyer, Secretary, Associated Pants Manufacturers of America, from Burton E. Oppenheim, Acting Deputy Administrator. (Cotton Garment Code files)

(***) Letter dated December 10, 1934, to Burton E. Oppenheimer, N.R.A. Deputy Administrator, from Sidney S. Moyer, the Moyer Mfg. Co. (Cotton Garment Code files.)

It was, of course, impossible, due to the uncertain wage and hour conditions in the Cotton Garment Industry caused by the injunction suit, to make any decisions or take any action on this pants problem.

E. Injunction Suit Terminated, January 23, 1935.

The injunction suit was finally terminated on January 23, 1935, but from December 1, 1934, until that date, nothing was accomplished towards adjusting this long-standing controversy.

III. Final Efforts Up To Supreme Court Decision, May 27, 1935.

On January 23, 1935, Division Administrator Prentiss L. Coonley terminated the exemption granted the Associated Pants Manufacturers in the following telegram:

"Exemption granted various members of your Industry from so much of Amendment Seven as provides for increase of wages effective December one, nineteen thirty four, automatically terminated today as the result of an order entered in the case of Alabama Textile Corporation et al.v. Cummings et al. vacating the restraining order previously entered in that case stop Please notify the members affected accordingly and advise us when you have done so." (*)

A. Men's Clothing Industry Urges Promot Action.

The Men's Clothing Industry was very anxious to have this overlap problem settled as soon as possible, and on January 25, 1935, Executive Director George L. Bell telegraphed Deputy Administrator Oppenheim as follows:

"Confirming telephone conversation Tuesday we are anxious for action on pants order in view decision on thirty-six hour week stop Understood you were to take matter up yesterday or today stop Would appreciate telephone or telegraphic communication tomorrow Saturday morning regarding status of matter to submit to Executive Committee which meets tomorrow at ten thirty." (**)

While the Administration apparently did not give Mr. Bell any definite reply to this wire, the Clothing Code Authority did discuss the subject at their meeting, which occasioned the following letter to Deputy Administrator Oppenheim:

(*) Telegram dated January 23, 1935, from Prentiss L. Coonley, Division Administrator, to Sidney S. Moyer, Secretary, Associated Pants Manufacturers of America. (Cotton Garment Code files.)

(**) Telegram dated January 25, 1935, from George L. Bell, Executive Director, Men's Clothing Code Authority, to Burton E. Oppenheim, (Cotton Garment Code files.)

"I have been informed that at a meeting of the Men's Clothing Workers there was discussion in regard to an amendment making it possible to take over the men's pants division from the Cotton Garment Code, or, at any rate, to have jurisdiction over pants containing some content of wool.

"I understand further that the proposition as to cutters was to be that they should be 60% of the Clothing Code or 60¢ an hour.

"I understand also that this has gone so far as to be in the shape of a tentative order.

"Don't you think that we should be consulted on this matter before steps are taken discussing the possible removal of members of our Code to another one, without our even having the privilege or courtesy of discussing it or having a hearing in regard to the matter? I would like very much to have you let me know whether this is as it has been given to me or not, as it does not seem to me that this is true cooperation as we have hoped to bring it about." (*)

Mr. Sweet's complaint that his Industry had not been consulted, might appear rather uncalled-for, as all recent negotiations, including the proposed amendments of November 27, had been discussed in detail with the Associated Pants Manufacturers and other interested Cotton Garment manufacturers.

B. Changes in Proposed Pants Order Suggested by Stanley A. Sweet.

Mr. Sweet then wrote as follows on February 7, 1935, suggesting further changes in these proposed amendments:

"Since writing you we have given further thought to the proposed amendment in regard to the so-called Pants Order and we have the following suggestions to make.

"Article II, Section A, of the Code, Item 1, change wording 'work clothing, work garments, work pants and children's play suits' to read 'work clothing, utility work and outdoor garments, and children's play suits.'

"Item 10, change wording 'men's and boys' pants when made in work clothing factories' to read 'men's and boys' pants, single knee pants, and men's, boys' and women's breeches when such garments, exclusive of trimmings, are made of 100% cotton fabrics and manufactured in a separate shop in which no part of the production of pants or breeches is made of wool fabrics or part wool fabrics.'

"In Schedule A. Amendment to the Code of Fair Competition for the Men's Clothing Industry, the words in parenthesis beginning 'except cotton pants manufactured in a shop' suggested should be 'except cotton pants and single knee pants manufactured in a shop, etc.'

(*) Letter dated January 29, 1935, from Stanley A. Sweet, Chairman, Cotton Garment Code Authority, to Burton E. Oppenheim, Deputy Administrator. (Cotton Garment Code files.)

"Furthermore, there should be another paragraph, in the right place, in regards to exceptions to be made where only a very small percentage of wool goods must be carried as a part of a work garment line. I would suggest that this be not done by trying to specify any certain fabrices or garments, since that opens up another endless complication. Specifically, however, take a situation like grey Kersey icemen's pants or linemen's pants which have always been made of the heavy all wool fabric and have always, from time immemorial, been considered a part of a work garment line. There are other items similar to this also. For instance, work pants made of shoddy materials or a percentage of wool but mostly cotton. There is no provision made for the manufacturer who has always made these to continue doing so. I would suggest that a paragraph be put in, stating in substance that where it is essential that certain fabrics containing wool must be carried by the manufacturer to complete his line but where he can show that this constitutes only a very small percentage of his total output he may so do by making application to the Clothing Code Authority, stating the circumstances and having an exemption granted to him whereby he may make this small amount of wool or part wool clothing under the Cotton Garment Label. I understand that there have been many cases where the Cotton Garment Code Authority has granted to members of the Clothing Code Authority such a courtesy. To all intents and purposes then, the Clothing Code Authority would have charge of wool and part wool pants and the Cotton Garment Code Authority of all cotton pants but on either side, by making application and showing that it is necessary to have a certain garment which does not come under its individual code, exceptions may be granted, I think everybody should be satisfied." (*)

After further conferences and conversations with Deputy Administrator Oppenheim, Mr. Sweet wrote again on February 18, 1935, as follows:

"I hereby confirm the conversation we had in regard to the amendment to the Code of Fair Competition for the Cotton Garment Industry and the Men's Clothing Industry regarding pants, and remind you that it was our opinion that such an amendment would be acceptable provided an extra paragraph were added whereby members of the Cotton Garment Industry, who manufacture wool pants or any pants in small quantity and show that they are a necessary part of their line but not a major part of it, should be allowed to continue in the Cotton Garment Code and manufacture such garments by applying to the Clothing Code for permission to continue such manufacture, and use Cotton Garment labels provided the proper minima are paid the manufacturing employees.

"Furthermore, we felt that single knee pants should also be added in the first paragraph of Article I of the Men's Clothing Code amendment in the parenthesis beginning 'except cotton pants manufactured in a shop', etc., so that it would be changed to read 'except cotton pants and single knee pants manufactured in a shop', etc.; that in the amendment to the Cotton Garment Industry, Article II, Section A, Item 1,

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(*) Letter dated February 7, 1935, from Stanley A. Sweet, Chairman, Cotton Garment Code Authority, to Burton E. Oppenheim, Deputy Administrator. (Cotton Garment Code files.)

we should change the wording 'work clothing, work garments, work pants, and children's play suits' to read 'work clothing, utility work and outdoor garments, and children's play suits'; and Item 10 change wording 'men's and boys' pants when made in work clothing factories' to read 'men's and boys' pants, single knee pants, and men's, boys' and women's breeches when such garments, exclusive of trimmings, are made of 100% cotton fabrics and manufactured in a separate shop in which no part of the production of pants or breeches is made of wool fabrics or part wool fabrics'." (*)

The suggestions embodied in this letter would, in the opinion of the Administration, nullify the proposed order, and Assistant Deputy Administrator Killinger replied with the following letter, dated February 23, 1935:

"Mr. Oppenheim has asked me to reply to your letter addressed to him of February 18, in which you dixcuss amendments to the Men's Clothing Code and Cotton Garment Code.

"The amendments which you propose to these codes would nullify the Order which is being proposed and the overlap between the two codes would be as troublesome from a jurisdiction standpoint as ever. We do not believe that the amendments as proposed will work undue hardship upon those members of the Cotton Garment Industry who manufacture wool pants in small quantities, since an amendment to the Men's Clothing Code provides that an Exceptions Committee of six members shall be appointed to recommend action to the Administration where undue hardship is shown, or unfair competitive advantage is imposed." (**)

On February 26, 1935, Acting Deputy Administrator Oppenheim wrote to both Mr. Sweet and Mr. Rosenbaum, enclosing copies of the proposed new Order, commenting that this Order was practically unchanged from the original draft of November, except that there had been added a provision for an Exemption Committee. (***)

On the same date, February 26, Mr. Sweet sent the following letter to Deputy Oppenheim in reply to Assistant Deputy Killinger's letter of February 23. Mr. Sweet disagreed with a number of these proposals and urged further delay and discussion of the problem:

(*) Letter dated February 18, 1935, from Stanley A. Sweet, Chairman, Cotton Garment Code Authority, to Burton E. Oppenheim, Deputy Administrator. (Cotton Garment Code files.)

(**) Letter dated February 23, 1935, from C. E. Killinger to Stanley A. Sweet, Chairman, Cotton Garment Code Authority. (Cotton Garment Code files.)

(***) See Letter dated February 26, 1935, from B. E. Oppenheim to S. A. Sweet. (Cotton Garment Code files.)

"I have before me letter dated February 23rd written by Mr. Killinger in response to my letter of the 18th relative to the proposed Pant Order providing for amendments to both the Cotton Garment and Clothing Codes.

"Since receipt of this letter and also during the interval of our numerous conversations on this subject, I have given further thought to this problem, especially the question of ultimate reception and interpretation of these proposed amendments by the manufacturers in our Industry, which has resulted in what I deem a necessary objection to issuance of the Order pending an ability to reach a more complete understanding on both sides.

"As an instance, the proposed amendment to the Cotton Garment Code, provides for the deletion of the word 'Work Pants' in Article #2, definition #1. Now then, there actually exists a definitely known and readily identifiable product, such as work pants. It constitutes a type of garment made and originated in a work clothing plant for over twenty five years and has been so identified with my firm during that time. To delete this specific description therefore, I fear will cause undue confusion, enhance additional resentment, not to say, cause hardship to many cotton garment plants who are manufacturing this type of garment in conjunction with Denim Pants. This type of pant likewise contains a small percentage of shoddy or reworked wool. It is also a type of garment and type of fabric which was never identified with a so-interpreted strictly clothing plant.

"In consequence of this I honestly feel that in order to avoid a renewal of the feud engendered at the hearing last June, the feelings of which have during the interval materially subsided, and likewise to avoid further unjust criticism of the handling of our Code, these considerations are of paramount importance. Even the elimination of the provision for manufacturing single knee pants made of all cotton fabrics from the Cotton Garment Code, is also an injustice. This likewise has been typical cotton garment product.

"I don't believe that you yourself, nor N.R.A. in originally codifying industry intended to destroy nor to incur a deliberate transfer of any one product or garment from one industry to another. Consequently this issue must be faced squarely and in my judgment approached with reasonableness on both sides.

"Based upon the foregoing facts therefore, nullification of the Pant Order as indicated by Mr. Killinger is in reality minor in contrast with reopening, especially at this time a problem which is bound to stir up strife, and considerable disturbance.

"Mr. Killinger in his letter also refers to undue hardship and unfair competitive advantages. On this point I must positively disagree. The actual difference in existing wage scales under both Codes today is so slight in comparison with the known sweat shop conditions rampant in our industry prior to N.R.A., that there is no just claim for unfair competitive advantage. My theory is that any sound business concern under prevailing conditions needs only to offer quality and service to overcome any slight advantages that may exist between both codes today. As a matter of fact, in my judgment there actually exists a greater difference

in wage levels amongst manufacturers identified within our own industry insofar as it applies on the one hand to such type of plant paying the bare minimas as compared with those paying above minimas and even Union schedules.

"In the light of these circumstances, I strongly recommend that you delay issuance of the Pant Order, pending our ability to discuss the problem further."*

On March 4, 1935, Deputy Administrator Oppenheim replied as follows to that letter, reiterating his opinion that this suggested order would be the most satisfactory solution to both sides, and stating that he felt further delay would not accomplish anything constructive.

"I have your letter of February 26th with reference to the proposed pants order.

"I think you understand that I have no desire to prolong any controversy as between the Cotton Garment Code Authority and the Men's Clothing Code Authority relative to the manufacture of pants. I must point out, however, the fact that the basis of the entire controversy has been the interpretation of the words 'work pants.' You are entirely familiar with arguments at the Hearings and the contentions of the Men's Clothing Code Authority that it is impossible to distinguish and define the difference between a work pant and any other pant. Therefore, I feel that the continuance of this definition in the Cotton Garment Code, if sought and desired by that Industry, simply means that we would have to begin the entire discussion from the beginning.

"I feel that the only clean cut manner in which to handle this situation is along the lines I discussed with you and with members of the Clothing Code Authority. Cotton pants should be in the Cotton Garment Code. Wool pants should be in the Men's Clothing Code. This decision does that.

"I can understand that there are certain types of shoddy pants which are more like work pants than many types of cotton pants, but on the present basis of arrangement, we have different wage scales applying to different cloths, and multiple jurisdiction over different cloths, and the whole thing has proven to be most unsatisfactory.

"Any members of the Cotton Garment Industry who desire to make pants which are not in competition with the Men's Clothing Industry, and who would suffer by having to make a few pants of this category under the Men's Clothing Code, can apply to the Committee set up in the Order. In the event that they do not receive satisfaction there, they can apply to the Administration here.

(*) Letter dated February 26, 1935, from Stanley A. Sweet, Chairman, Cotton Garment Code Authority, to Burton E. Oppenheim, Acting Deputy Administrator. (Cotton Garment Code files.)

"With reference to the matter of competitive disadvantages, you will recall that I have pointed out to you before that the Men's Clothing Code contains classified wages for cutters and pressers. It is true that these classified wages are lower than wages which firms like your company are paying, but there are many manufacturers who are paying wages which approach the minimums set in the Men's Clothing Code and, of course, under the Cotton Garment Code they are not required to do so.

"I would like to issue this order this week as the decision has been delayed for some time and for various reasons. I hardly feel that further delay would accomplish anything constructive."*

In the following reply, dated March 5, 1935, Mr. Sweet quite materially changed his former attitude, admitting that in his personal opinion the proposals were in substance satisfactory, but he requested that no action be taken for at least another week, until he had further opportunity to discuss the matter with the Industry members who would be in New York City for the next Code Authority meeting:

"I have yours of March 4th in regard to the Pants Order. In substance this is perfectly satisfactory to myself, provided we add in the additions to the Men's Clothing Code, first paragraph of Article I, '(except cotton pants and cotton single knee pants ....'.

"I agree with you that if we try to define work pants as against dress pants there will not be any solution--but if we can separate wool pants and cotton pants in the two codes it should be satisfactory to practically everybody. It is true that there are certain types of shoddy pants that naturally belong to the Cotton Code but which would technically come under the Clothing Code by this rule. At the same time there are also cotton worsteds, which are a little more dressy than work pants, for which the same arguments could be used. I feel that one balances the other and that no hardship would ensue especially since the Exemptions Committee provided for can handle such cases.

"I quote a letter from Mr. Oscar Berman, writing as Chairman of the Executive Committee of the Union-Made Garment Manufacturers Association who states;- 'If I understand this correctly the proposition is that all cotton garments or cotton pants belong to the Cotton Code and that all pants made out of wool or part wool would come under the Clothing Code. Personally I believe that this is a good settlement of the long drawn out controversy. I believe that there are only a few of our members who make wool or part wool trousers and even these might be willing to discontinue these so as to make all other pants under the Cotton Garment Code, etc.'

"He sums up by stating that the Union-Made Garment Manufacturers Association would be willing to accept an amendment as understood in his above quotations.

(*.) Letter dated March 4, 1935, from Burton E. Oppenheim, Deputy Administrator, to Stanley A. Sweet, Chairman, Cotton Garment Code Authority. (Cotton Garment Code files.)

"In giving you the above information I am giving it to you as my personal opinion, but I would hesitate to answer for the entire industry; there are many who might not agree and therefore I think it is essential to hold this Order over until after our meeting next Monday of the Code Authority where we should be able to definitely come to a decision. You state that you would like to issue it this week--one week more cannot do any great harm and I feel that this would be the wise thing to do especially as I have not had any opportunity to get the feeling of all the industry involved except very informally with a few individual members."*

C. Request of Associated Pants Manufacturers for Four Hours Weekly Overtime.

A new, rather irritating and annoying factor appeared upon the horizon at this particular moment. The entire Men's Clothing Industry applied for and was granted an exemption permitting them to operate their plants four hours overtime weekly at regular rates of pay for a five-week period, starting the first week in March. One of the main reasons for this request was the delayed deliveries from the woolen mills. The Associated Pants Manufacturers, experiencing the same delay in deliveries, and competing with many of the Clothing Code pants producers, asked for a similar exemption from the Industrial Committee of the Cotton Garment Code, and their application was denied. They felt they were being unjustly discriminated against, and on March 8, 1935, wrote the following letter to the Cotton Garment Code Authority:

"I have your telegram advising me that the Industrial Committee has denied the application of the Associated Pants Manufacturers of America for the hour exemption as has been given to manufacturers under the Clothing Code for the reason that manufacturers under the Cotton Garment Code are supposedly working on cotton cloth.

"It is absolutely ununderstandable to the writer why the Industrial Committee should suppose any such thing. Anyone who has read the Code of Fair Competition for the Cotton Garment Industry, and I presume that you have read it and the members of your committee should have read it, knows that this Code provides for the manufacture of goods other than cotton in pants under the Cotton Garment Code. I refer you to Article IV, Section A, Part (1):

"'No manufacturing employee engaged in the production of men's and boys' pants when made of (a) corduroy, other than those shades set forth below, or (b) cloths other than those set forth below, whether or not made in work clothing factories, shall be paid at less than the rate of thirty-four cents (34¢) per hour in the southern section of the Industry, or less than thirty-seven cents (37¢) per hour in the northern section of the Industry, as such sections are defined in the Cotton Garment Code and amendments thereto.'

"Obviously the Code provides for the manufacture of every conceivable kind of cloth, and under the circumstances I am again requesting

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(*) Letter dated March 5, 1935, from Stanley A. Sweet, Chairman, Cotton Garment Code Authority, to Burton E. Oppenheim, Deputy Administrator. (Cotton Garment Code files.)

that those members who are hurt and suffering hardship be afforded relief, and that in view of the fact that the reasons given by the Industrial Committee for refusing this application are not sound nor based on fact, there should be no reason why the application should not be immediately granted."*

They likewise complained most strenuously to the Administration, and the matter was adjusted so that requests of individual members would be considered on their merits, asAssistant Deputy Administrator Killinger advised Mr. Moyer in the following letter:

"In further reply to your letter of March 1, we are advised that the Industrial Committee of the Cotton Garment Code Authority wired you that they would consider each application for members of your association as they were received on their individual merits." **

This incident tended considerably to further inflame the ill-will and bad feeling not only between the two Industries but also between the members of the same Industries and between industry members and their Code Authorities.

Definite action on these proposals was delayed, in compliance with Mr. Sweet's request of March 5th.

D. Cotton Garment Code Authority Approves Proposed Pants Order, March 11, 1935.

A meeting of the Cotton Garment Code Authority was held at 40 Worth Street, New York City, on Monday, March 11, 1935, and a resolution was passed duly approving the pants order as proposed by the Administration. Mr. Sam Miller, as alternate for Mr. Justin McCarty of the Southwest, objected on the grounds that no advance notice had been given that this pants question would be discussed, and therefore a number of interested Southern manufacturers were not present at this meeting. Chairman Sweet ruled that a quorum was present and that it was entirely proper to vote on the question, and the motion was then passed.***

E. Protests from Southern Manufacturers

However, immediately after this Cotton Garment Code Authority meeting, the Administration was once more flooded with protests and demands for further delay. Most of these came from members of the Southern Garment Manufacturers Association, who produced work pants and the cheaper lines of dress pants. They based most of their complaints on the unfair competition which would ensue from the prison labor garments which would not be subject to the new wage and hour provisions.

(*) Letter dated March 8th, 1935, to J. W. Spotten, Cotton Garment Code Authority, from Sidney S. Moyer, of the Associated Pants Manufacturers of America. (Cotton Garment Code files.)

(**) Letter dated March 16, 1935, from C. E. Killinger, Assistant Deputy Administrator, to Sidney S. Moyer, Secretary, Associated Pants Mfrs. of America. (Cotton Garment Code files.)

(***) See Minutes of Meeting of Cotton Garment Code Authority, March 11, 1935, Pages 64-81. (Cotton Garment Code files.)

The Southern Garment Manufacturers Association sent the following telegram to Division Administrator Coonley, under date of March 18,1935:

"The Southern Garment Manufacturers Association on behalf of more than two hundred manufacturers of pants respectfully but strenuously protest the proposed order now before you which will place additional burdens upon an already broken industry stop Judging from qualifications of the gentlemen who have advocated this arrangement we contend their ideas are not for the betterment of the industry in general stop There is no way to segregate cotton and wool production without labor disturbance stop The original Cotton Garment Code contemplated production of all pants of predominant cotton content and on this basis an industry has been built which with its employment of thousands of people will be destroyed stop Such burden is unfair with largest pant manufacturers in the country enjoying prison contracts who will not be affected stop On behalf our membership we emphatically protest and urge your favorable reconsideration--Southern Garment Manufacturers Association W. Gordon McKelvey Secretary Counsel."*

The following telegram of March 18, 1935, from the Barrow Manufacturing Company, of Winder, Georgia, indicates the openly hostile and arbitrary attitude of a number of these manufacturers:

"I understand you are going to place any part wool pants under Clothing Code stop That is a lot for one man to assume without questioning at least the manufacturers it affects stop This is to advise that If I wish to cut wool pants in the future I shall do so under Cotton Garment Code We have a state government down here to protect its citizens"**

Mr. H. E. Rowan, of the Elder Manufacturing Company of St. Louis, Mo., on behalf of the International Association of Garment Manufacturers, wrote the following letter to Division Administrator Coonley:

"I have just been informed of the new Pant Order for the Cotton Garment Industry and while I have not seen a complete copy of the Order its fundamentals have been given to me and after trying to figure out what it would mean to the majority of cotton pant manufacturers or work pant manufacturers in the country, I am writing that you please review this more carefully as I am afraid it is going to disorganize the entire industry from one end of the country to the other.

"As an illustration I might cite a local work pant manufacturer who makes various types of cotton pants for ten months of the year and who then to fill-in and keep his factory going and to keep the help employed manufactures a cheap item of cotton and wool mixture, which are the type worn by working men who need a heavier and warner pant for cold weather. I believe if you would contact some of the

(*) Telegram dated March 18, 1935, to Prentiss L. Coonley, Divisional Administrator, from W. Gordon McKelvey, Secretary-Counsel, Southern Garment Manufacturers Association. (Cotton Garment Code files.

(**) Telegram Dated March 18, 1935, from Barrow Mfg. Co., Winder, Ga., to Prentiss L. Coonley, Division Administrator. (Cotton Garment Code files.

manufacturers of textiles in New York, where their lines of materials are easily available, you will find the sale of these materials do not really go to any clothing manufacturers and have not been sold to the clothing industries for generations. There are a few Mills making so-called shoddy and cheap mixtures who have always sold them to the work pant manufacturer.

"The effect of this Order would be either gross violations on the one hand or a manufacturer who discontinued making any shoddy or cheap mixture goods would be obliged to shut down his plant for possibly two or three months in the year thereby causing unemployment in changing the nature of his business.

"Last Fall during the discussion of the thirty-six hour week, one of the big arguments in favor of placing our industry on the thirty-six hour week was to bring it in line with the Clothing Industry and thereby abolish overlapping of the various articles made. Now that the cotton garment industry is working on the thirty-six hour week I see no reason for this Pant Order, as it brings competition in the Industry practically on the same basis.

"I wish you would go over this matter and give it some consideration and I would appreciate a letter from you on the subject.

"With kindest regards, I am, etc."*

Mr. W. Gordon McKelvey, Secretary of the Southern Garment Manufacturers Association, held a conference in Washington on March 26, 1935, with Division Administrator Coonley.**

(*) Letter dated March 21, 1935, from H. E. Rowan, Elder Manufacturing Co., St. Louis, Mo., to Prentiss L. Coonley, Divisional Administrator. (Cotton Garment Code files.)

(**) See telegrams of March 24 and March 25, 1935, requesting and confirming this appointment. (Men's Clothing Files.)

F. Letters from Associated Pants Manufacturers, Approving Proposed Order

The following letters, under dates of March 22, March 26, and April 1, 1935, from Lester F. Rosenbaum to Deputy Administrator Oppenheim, show in considerable detail the points of view of the members of the Associated Pants Manufacturers at this stage of the controversy:

"I rather expected that the Pants Order would be issued by this time and that the fireworks might start. I have a letter from Sidney Hoyer this morning in which he says that he wonders, from articles he has seen in the News Record, etc., whether the Pants Order is going to be accepted in a very good spirit. He says:

"'Unfortunately it has been delayed too long and now people who, prior to this time, would never think of objecting will object. Just what is your opinion of the situation? Do you think it is advisable to give the Order our own backing? Personally, I think we should but I don't want to get myself pushed into some other Code and later find the rest of the industry cannot be put under it.

"'You will note the enclosed resignation from Happ Brothers. No doubt they are fearful of the new Pants Order and don't want to be identified with our Association because of it.

"'I think all of these facts should be put before Oppenheim so that he can more fully appreciate the delicate situation he has and make the new order as attractive as possible; otherwise, he is just not going to get anybody under it, that's all.'

"Sidney sent me the letter from Happ Brothers and I more or less agree with him that the reason for their resignation is that they have read these articles about the new Pants Order in the papers and are fearful that they are to be boomed.

"Furthermore, I stopped in Buffalo on my way home from New York, and talked to the Lenski Brothers of the Royal Pants Company. I explained to them the new Order and they were very unhappy about it and fearful that it would cause further trouble.

"Now, personally, I don't feel this way at all and I think that we ought to back the order. At the same time, as Sidney says, it wouldn't be very healthful for us if we backed the Order and then no-one else did.

"You, no doubt, have received a copy of the letter from the International Association of Garment Manufactueres, signed

by M. E. Rowan, which in effect tells about what is going to happen in the Pants Order, which letter seems to be in very good spirit. If you have not had a copy of this letter I will be glad to send you the copy I have.

"Now, it just occurs to me that in view of the fact that the Cotton Garment Code Authority at its last meeting approved this order, that they are bound in every way to be helpful in seeing that it is enforced. In other words, if the order is issued I would think that it would be necessary for the Cotton Garment Code Authority to require an affidavit from members of the industry working under that Code to the effect that these labels are to be used on Cotton Pants only, and on pants made in a shop where no wool or part wool pants are made.

"In other words, if the Cotton Garment Code Authority indiscriminately is allowed to sell its labels without knowing what is going to happen to them, then I can readily foresee that the Order which is about to be issued will have no effect whatever.

"In other words, if a manufacturer classifies himself according to the order, he should not be permitted to buy any labels except those which he would be permitted to use under the Order, and the Cotton Garment Code (Authority) should not be permitted to sell labels to anyone, after the order is issued, until it is thoroughly convinced that these labels will be properly used in accordance with the N.R.A. and Code requirements of both the Cotton Garment Authority and the Pants Sub-division of the Men's Clothing Code Authority.

"With kindest personal regards and hoping you will realize that the points mentioned herein are quite vital to the success of the Order, I am, etc."(*)

"I have just finished reading the Daily News Record of March 21st and find on the first page a story from Washington which reads as follows:

"'The NRA order placing cotton work pants made in the same factory as woolen pants under the men's clothing code has been held up for an indefinite period, it is learned here.

"'It is explained that the difference for operators in the two codes is not greater than a penny or two. Wages for cutters and pressers also may not vary from each other to any great extent, it is said.

"'It may be, it is stated, that a fixed rate for cutters and pressers will be put into the cotton garment code.'

(*) Letter dated March 22, 1933, from Lester F. Rosenbaum, Kalamazoo Pant Company, to Burton Oppenheim, Deputy Administrator. (Cotton Garment Code files.)

"I am quite disturbed by this article as apparently it has been officially inspired and I should like to have some kind of word from you, either by letter or telephone, as to whether it is true that this order is being indefinitely held up, so that I and others in my position can make out plans for future operations during the coming season and also for the fall season.

"You have no idea how this uncertainty of what is going to happen destroys the morale of a manufacturer who cannot make his plans clearly and honestly in advance, not knowing what the situation may be in the future. It is much better for anyone to know where he stands, even though his new situation might not be so favorable as his old one, than to have things hanging fire the way they have been.

"When I saw you in New York a couple of weeks ago I understood this Order was to be issued within forty-eight hours, but, of course, a good many times forty-eight hours have passed since that time.

"You may be sure, of course, that I will not object to staying under the Cotton Garment Code, which I have always felt was the natural place for the Pants people, and if, as stated in the bottom part of this article, a minimum rate for cutters and pressers will be put into the Cotton Garment Code, certainly there could be no further reason for the issuance of the Pants Order.

"I can understand, of course, why, in view of impending legislation, or lack of legislation, regarding N.R.A., on the part of Congress, there should be an unwillingness on the part of the N.R.A. to issue new orders which would necessitate code re-arrangements and which possibly then could only last for a couple of months; but if this is the case and the order is not to be issued then I believe the Administration should make a clear announcement so that the industry will know just where it stands. This indecision is not doing any of us any good.

"With kindest personal regards, etc."(*)

"On March 22nd and on March 26th I addressed to you two important letters covering the supposedly impending Pants Order, to neither of which letters have I had an answer. The questions I asked and the matters I put up to you in those letters are all of such great importance, not only to ourselves, but to all Pants Manufacturers similarly situated, and I think you ought to advise me of whatever action you are going to take and that immediately.

(*) Letter dated March 26, 1935, from Lester F. Rosenbaum, Kalamazoo Pant Company, to Burton Oppenheim, Deputy Administrator. (Cotton Garment Code files.)

"It has come to my attention through an outside source that at least one southern manufacturer has been in Washington recently and in fact he has boasted to someone who is very close to me that he thought I had sold out to the Clothing Code and that he had personally been the means of stopping the issuance of the Order.

"I should like very much to know whether this is the case and if the order is now not going to be issued, because until it is issued or until a definite statement is made by the Administration that it is not going to be issued, you can well understand there is terrible confusion among the Pants people who would be affected by it.

"If you don't care to answer this letter I would appreciate your calling me on the telephone upon its arrival to advise me what is going on and just what is happening with respect to this order.

"With kindest personal regards, etc." (*)

Deputy Administrator Oppenheim replied to Mr. Rosenbaum under date of April 1, 1935, as follows:

"I have your letters of March 22 and March 26.

"We have received quite a few objections to the pants order. However, they have come almost entirely from the southern manufacturers and are not stated in detail. In view of the fact that they have been recorded, we have requested Mr. McKelvey to submit a brief stating fully just what is the objection to the proposed order and how the issuance of the order would adversely affect the members of his Association. After we have received this, we will be able to determine what the next step should be.

"I will get in touch with you just as soon as I have anything definite on this situation." (**)

(*) Letter dated April 1, 1935, from Lester F. Rosenbaum, Kalamazoo Pant Company, to Burton Oppenheim, Deputy Administrator. (Cotton Garment Code files.)

(**) Letter dated April 1, 1935, from Burton E. Oppenheim, Deputy Administrator, to Lester F. Rosenbaum, Kalamazoo Pant Company. (Cotton Garment Code files.)

G. Changes Proposed by Deputy Administrator Oppenheim.

As a result of all these occurrences, Acting Division Administrator M. D. Vincent and Deputy Administrator Oppenheim decided to re-open the question and attempt to work up another order which would be more satisfactory and acceptable to all elements of the industries. Conferences, telephone conversations, etc., were once again resumed. On April 17, 1935, Deputy Administrator Oppenheim, in the following memorandum to Division Administrator Vincent, very clearly expressed his opinions and suggestions:

"2. Pants Order-

"Since the Cotton Garment Industry has been placed on a 36 hour basis the difference in wages paid to operators under the Cotton Garment Code and the Men's Clothing Code amounts to 2/3 of one cent per hour in the South and 8/9 of one cent per hour in the North. The Men's Clothing Code has wages for cutters of $1 per hour and for pressers of 75 cents per hour. The order which we contemplated issuing provides for a special rate in the Men's Clothing Code for the manufacture of pants by which cutters would be paid 60 cents per hour and pressers 45 cents per hour for a 60-day period subject to the further order of the Administration which would act after 60 days on a report made by a special commission designated to investigate the effect of these wages.

"The order further provides that all plants making woolen pants shall come under the Men's Clothing Code for their entire production. Therefore, the Cotton Garment manufacturers must decide whether they wish to give up the manufacture of woolen pants or come under the Men's Clothing Code.

"The objections which we have received have been inspired by the Southern Garment Manufactures Association. These people have sent us many telegrams and have had Senators inquire into the matter by letter and telephone. I requested the counsel of the Association by telegram on April 8 to submit the objections in the form of a brief. This brief has not been received. The Cotton Garment Code Authority approved the amendment at their last meeting but have since advised that they would prefer to consider the matter further.

"I do not believe that this order is the proper solution of the problem. It was worked out on the basis of an agreement and not on facts.

"The real crux of the matter lies in the fact that the Men's Clothing Code has classified wages and the Cotton Garment Code has not. The objections of the Cotton Garment manufacturers to operating under the Men's Clothing Code are based on the fact that they do not want to be affiliated with a highly unionized industry.

"The majority of single pants have always been made under the Cotton Garment Code. If this order were issued, it would transfer all woolen pants and a great many other pants to the Men's Clothing Code. Then all manufacturers who make cotton pants under the Men's Clothing Code because of this order would complain that they could not sell these pants because Cotton Garment manufacturers were also making them.

"We are, therefore, faced with the necessity of putting all single pants under the Men's Clothing Code or inserting classified wages in the Cotton Garment Code. I am in favor of taking one of these steps but would much prefer to work in the direction of inserting proper classified wages. I do not think the Administration should be concerned with moving articles from one Code to another as long as we are sure that equal minimum wages apply and fair competition is thereby maintained. As an alternative, I would suggest that the Labor Advisory Board propose classified wages for the Cotton Garment Code for cutters and pressers as outlined by the order and that the rest of the order be scrapped, and that a hearing be held in June on this proposal.

"3. Melton Jackets -

"The more representative members of the Industry have advised me privately that they will sponsor a 40 cent Minimum for meltons and mackinaws in the Cotton Garment Industry. I feel that this should come to us in the form of a proposal from the Code Authority and I have been given assurance that at the next Code Authority meeting the matter will be proposed in this way." (*)

(*) Memorandum dated April 17, 1935, to M. D. Vincent, Acting Division Administrator, from Burton E. Oppenheim, Deputy Administrator, Subject: Questions in the Cotton Garment Industry. (Cotton Garment Code files.)

On April 26, 1935, Deputy Administrator Oppenheim wrote as follows to Mr. Morris Greenberg, Executive Director, Men's Clothing Code Authority:

"I am enclosing a copy of the proposed 'pants order' concerning which there has been so much discussion. It occurs to me that it would be a more permanent solution of the problem if the wage terms of this order were included in the Cotton Garment Code under the same conditions as provided in the order. The disadvantage of this order lies in the fact that it will compel cotton pants which are made by Clothing manufacturers to be made at higher rates than cotton pants made by Cotton Garment manufacturers. In addition I feel that there will be wholesale noncompliance because of the feeling on the part of Southern pants manufacturers against going into the Clothing Code who will make wool pants without coming under your Code and will enjoy an advantage.

"By putting these wages into the Cotton Garment Code we will simply be faced with the matter of seeing that the Code is complied with as to hour and wage provisions. The present Cotton Garment Code Authority set-up with a good Labor Complaints Committee is securing compliance in a better way then heretofore and violations can more easily be checked as long as labor provisions only are concerned and not the fabrics used.

"This proposed order contains a clause which will ultimately result in a learner provision for the Men's Clothing Code similar to that in the Cotton Garment Code. This might have some disadvantage as far as the Men's Clothing Code is concerned.

"The Cotton Garment Code Authority is preparing to propose at the next meeting, which will be held on Tuesday, higher minima for wages in the manufacture of certain products and I think they will propose that the wages suggested in this order be incorporated under the same conditions as proposed in the order. This proposal originally came from Rosenbaum and I spoke to him on the telephone today. He is greatly in favor of it.

"I have spoken to members of the Labor Advisory Board and they have suggested that they would prefer to see all single pants made under the Cotton Garment Code if these wages are incorporated in that Code. This would eliminate the necessity for dual jurisdiction. In the event this were done, Mr. Brill and his association would have to be satisfied and probably given representation on the Code Authority. If we try to continue dual jurisdiction,

we can insert a provision similar to that worked out for the Infants' and Children's Wear Code which does not make operation under a certain Code optional but makes classification automatic on the basis of the signed certificate of compliance in effect at the time the order is issued.

"Will you talk with Mr. Brill about this for me and find out if he would like to discuss it with me any further. I shall be in New York for the Cotton Garment Code Authority meeting on Tuesday and will be glad to see you or him at that time.

"With kind regards, etc." (*)

H. Committee Appointed by Cotton Garment Code Authority Classified Wages for Cutters and Off-Pressers Approved April 30, 1935.

On April 30, 1935, Deputy Administrator Oppenheim attended the meeting of the Cotton Garment Code Authority, and there made the following statement:

"We have this overlap with the Men's Clothing Code that will only be settled if we cooperate in the way that will sort of lead toward that end.

"The last order which I presented here and which you considered as a body called for certain wages to be placed in the Men's Clothing Code which would cover the manufacture of single pants. Those wages were 60 cents an hour for cutters and 45 cents an hour for pressers. The ruling in this order was that all woolen pants were to go in the Men's Clothing Code and all cotton pants that were made in the same factories that were making woolen pants were to go in the Men's Clothing Code, and only factories that made nothing but cotton pants could remain in the Cotton Garment Code. That is what that order prooposed. The objections to that order were not on the basis of the wage rates; they were objections because manufacturers in this industry didn't want to go in the Men's Clothing Code; they wanted to stay in the Cotton Garment Code.

(*) Letter dated April 26, 1935, from Burton E. Oppenheim, Deputy Administrator, to Morris Greenberg, Executive Director, Men's Clothing Code Authority.

> "As far as the Administration is concerned, we are not particularly anxious to move manufacturers from one code into another code. All we are anxious to do is to have competitive conditions equalized by code provisions. So what I would suggest is that this Code Authority propose that the wages provided for in that former pants order be put into the Cotton Garment Code for the manufacture of pants, and then a committee be appointed to work with the Administration and with the Men's Clothing Code to realign definitions in some way which will be mutually satisfactory to both industries.
>
> "That, I think, would be the easiest and best way for all concerned to get around this overlapping problem, and I would like to have you consider a motion along those lines, if somebody will make it, because I think it is the most practical way of getting rid of this controversy." (*)

Pursuant to this suggestion, the Cotton Garment Code Authority passed a resolution

> "***that the consensus of Code Authority is that the troublesome question concerning pants and jurisdiction between the codes be settled as speedily as possible, and that the Secretary be directed to notify the pants manufacturers that they are requested to select a committee to confer with the Administration looking to the settlement of the question and the committee have the power to settle it in such a manner as the representatives of the pants manufacturers desire." (**)

The following men were selected for the Committee:

> Lester Rosenbaum, Kalamazoo Pant Co., Kalamazoo, Mich.
> H. Z. Isaacs, I. C. Isaacs & Co., Baltimore, Md.
> Oscar Groebl, Levi-Strauss Co., New York City.
> Oscar Berman, Crown Overall Co., Cincinnati, Ohio.
> Ben Kenny, H. D. Lee Mercantile Co., Kansas City, Mo.
> Sam. I. Miller, Miller Bros., Houston, Texas.
> M. Michael, Happ Brothers, Macon, Georgia.

Mr. C. G. Daughters, Executive Director of the Work Clothes Divisional Code Authority, called the first Committee meeting on May 23, 1935, as per the following letter written by him on May 9, 1935, to all members of the Committee:

(*) Statement of Mr. Oppenheim, Minutes of Meeting of Cotton Garment Code Authority, April 30, 1935, pages 66 and 67.

(**) Minutes of Meeting, Cotton Garment Code Authority, Inc., April 30, 1935; page 75. (Cotton Garment Code Files.)

"A resolution was adopted by the Cotton Garment Code Authority on April 30th authorizing the selection of a committee of representative industry members who are engaged in the manufacturing of pants.

"This committee is to be comprised of three exclusive pants manufacturers, two diversified manufacturers and two union garment manufacturers.

"This committee will have power to act for the Cotton Garment Code Authority on the final disposition of the jurisdiction of pants in the controversy of long standing between the Men's Clothing Code and the Cotton Garment Code.

"This special committee will meet at the Cotton Garment Code Authority offices, New York City, Thursday, May 23rd, 2:30 P.M.

"Expenses of members of this committee will be paid by the Cotton Garment Code Authority upon proper presentation.

"You are asked to serve on that committee. Will you please acknowledge by return mail your acceptance of this appointment.

"This committee will consider a proposition offered in final settlement of pants jurisdiction as follows: a 60¢ minimum for cutters (on pants only) a 46¢ minimum for pressers; all single pants manufacturers may elect to remain under the Cotton Garment Code.

"Please attach copy of this letter to your statement of expenses in attending this meeting." (*)

I. Final Proposal by Deputy Administrator Oppenheim.

In the meantime, Deputy Administrator Oppenheim had been conferring and negotiating further with both Code Authorities, and had suggested a proposal inserting classified wages for cutters and pressers, setting up a divisional Code Authority under the Men's Clothing Code, to govern the single pants manufacturers, and permitting Cotton Garment Code manufacturers to produce a limited amount of woolen pants. This would mean that those Cotton Garment manufacturers who wished to

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(*) Letter dated May 9, 1935, to M. Michael, Happ Brothers, Macon, Ga., and others on committee, from C. G. Daughters, Executive Director, Work Clothes Divisional Code Authority.

make a few wool pants would not have to go under the Men's Clothing Code, and on the other hand, Men's Clothing manufacturers who made pants which were pants of a suit, could not operate under the Cotton Garment Code where the amount of production of wool pants would be limited to a fixed percentage of total production.

On May 4, 1935, Deputy Administrator Oppenheim wrote the following letter to Mr. Sweet, Chairman of the Cotton Garment Code Authority, regarding this proposal, as follows:

> "I have discussed the pants problem with my associates here and have also discussed it with Mr. Drechsler of the Men's Clothing Code Authority. The primary difficulty involved concerns the question of placing in any order safe-guards which would prevent the provision agreed upon for single pants from being used by Clothing manufacturers to their advantage so that they would make pants which are part of suits under the pants provision instead of under the clothing provision written to cover these articles.
>
> "In order to avoid this situation, I should think that all manufacturers of all pants have a common interest. The administration is primarily concerned with seeing that the wages paid for the manufacture of single pants are equal so that manufacturers operating under one code do not have an advantage over those operating under another code. I have thought of the following proposal which I should like you to consider (1) insert in the Cotton Garment Code and in the Men's Clothing Code the wages of 60 cents for cutters and 45 cents for pressers which were proposed in the last order and amendment which the Cotton Garment Code Authority considered and commented upon favorably, (2) set up a divisional code authority under the Men's Clothing Code to govern manufacturers operating under that Code who are making single pants, (3) limitation of the definition of pants in the Cotton Garment Code to the effect that manufacturers of pants who wish to operate under this Code must limit their production on wool or part wool goods to an agreed upon percentage of the total volume, (4) the subdivisional code authority and the Cotton Garment Code Authority appoint an intercode committee to see that this provision is properly carried out.
>
> "The advantage I see are that Cotton Garment manufacturers who wish to make a few wool pants would not have to go under the Men's Clothing Code. On the other hand, the Men's Clothing manufacturers who make pants which are parts of suits could not operate under the Cotton Garment Code if

they were restricted as to the amount of wool pants they were allowed to make.

"This plan is equitable only if the wages proposed are put into both Codes so that there would be no advantage in making single pants in one code rather (than) another. The Men's Clothing Code has certain proposed amendments upon which the Administration expects to act. It is, therefore, vitally necessary that we come to a decision on this matter promptly.

"I have sent this plan to Mr. Greenberg of the Men's Clothing Code Authority and asked him to communicate with me on Monday with the purpose of arranging for an informal conference here on Tuesday to discuss this plan. If you could arrange to do likewise, I certainly would appreciate it." (*)

And on the same date, Mr. Oppenheim wrote Morris Greenberg the following letter:

"I have discussed the pants situation with Messrs. Woodford and Feiss and also with Mr. Drechsler and I realize the importance of the point you brought up that we must be careful toavoid giving a loophole to Clothing manufacturers to make pants which are part of a suit of clothes under any provision written in Codes which are intended to apply only to the manufacture of single pants. In view of the complexity of the situation I would like you to consider a proposal which would provide (1) the establishment of the rates proposed in our present pants order, 60 cents for cutters and 45 cents for pressers, in both the Men's Clothing Code and the Cotton Garment Code, (2) the creation under the Men's Clothing Code of a subdivisional code authority, as proposed in the last order, to administer the provisions of that Code for the manufacturers of single pants operating under it, (3) limitation of the Cotton Garment Code definition on pants to the effect that manufacturers making single pants under that Code shall not make more than some agreed upon percentage of their production out of wool or part wool cloths.

(*) Letter dated May 4, 1935, from Burton E. Oppenheim, Deputy Administrator, to Mr. Stanley Sweet, Sweet-Orr and Company.

"This solution presents the difficulty of providing dual jurisdiction over the manufacture of men's pants. If, however, an intercode committee were established, composed of members of the subdivisional code authority and the Cotton Garment Code Authority, to cooperate on investigation, both of these interests should be glad to unite in seeing that Men's Clothing manufacturers do not obtain an advantage by making their pants under the more favorable provisions agreed upon for the manufacture of single pants. They should do this for their own protection. I think you will realize that the Administration cannot be primarily concerned with making manufacturers come under one Code rather than another. Our main purpose is to achieve fair competition in the making of similar products.

"Will you discuss this with Mr. Drechsler and with Mr. Brill and Mr. Potofsky and get in touch with me on Monday. I am writing a similar letter to the Cotton Garment manufacturers and would like to arrange for a conference here on Tuesday so that we can come to some conclusion if possible." (*)

J. Southern Manufacturers Still Object.

Then, as a result of a conference in Deputy Administrator Oppenheim's office on May 7, 1935, Mr. Daughters wrote the following letter under date of May 9, 1935, to Mr. W. C. Morgan, General Manager, Cotton Garment Code Authority:

"I herewith hand you for your pants file a resume of the meeting with Deputy Administrator Oppenheim and Mr. Greenberg, Executive Director of the Men's Clothing Code in Mr. Oppenheim's office on May 7th. Mr. Greenber's contention was this.

"Pants manufacturers, more particularly of wool content, must be placed under the Men's Clothing Code jurisdiction; that the Men's Clothing Code Authority would be willing to set up a subdivisional Code Authority having jurisdiction over single pants manufacturers; that the alleged widespread in labor costs between pants

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(*) Letter dated May 4, 1935, from Burton D. Oppenheim, Deputy Administrator, to Morris Greenberg, Executive Director, Men's Clothing Code Authority.

manufacturers under the Cotton Garment Code and those under the Men's Clothing Code must be equalized, and in final analysis, some provision must be made in any event whereby the manufacturers of men's suits, especially in the medium and cheaper grades, could not slide out from under the Men's Clothing Code and have their pants manufactured by firms under the Cotton Garment Code, thereby leaving the Men's Clothing Code only overcoats, coats and vests.

"As a representative of the Cotton Garment Code Authority, the basis of my statement was that single pants manufacturers under the Cotton Garment Code represented by far the larger production of men's and boy's pants; that by far the larger production of men's and boy's pants was cotton or largely cotton content; that a very large percentage of the production was in the low priced range and could in no reasonable sense be classified as seriously competing with the manufacture of men's suits; that the 36-hour order removed the major complaint of labor cost differentials between the Men's Clothing Code and the Cotton Garment Code; that it might be possible to adjust any further differences in the particular case of cutters and pressers, but in the final analysis very few single pants manufacturers under the Cotton Garment Code would stand for being placed under the jurisdiction of the men's Clothing Code.

"In this conference there appeared no basis of meeting of minds between Mr. Greenberg and myself and I, therefore, asked Mr. Oppenheim whether we had to satisfy the Men's Clothing Code, whether we had to satisfy him as an Administrator of the Code, or whom we would have to satisfy. His answer was that in the final analysis he (Mr. Oppenheim) would have to make the decision. In answer to my further question, Mr. Oppenheim stated that if pants manufacturers under the Cotton Garment Code would accept a 60¢ minimum for cutters and a 45¢ minimum for pressers irrespective of cotton or wool content, jurisdiction of a manufacture of single pants and those not made in conjunction with men's clothing would be placed under the jurisdiction of the Cotton Garment Code.

"On that basis I have contacted with doubtful opinions, particularly Mr. L. H. Jones, Washington Manufacturing Co., Nashville - Mr. J. O. Fly, Fly Manufacturing Co., Shelbyville, Tenn. - Evan

McConnell of the Roswell Company and Mr. Michael of Happ Brothers, all of whom represent Southern pants manufacturing interests. This was done by long distance telephone.

"Mr. L. H. Jones was very vociferous in his opposition to such a proposal. He stated that Southern manufacturers were 'up in arms' and this would put them in open resistance to the Code, that many in the South are not now living up to the Code etc. and so on.

"Mr. Evan McConnell felt that the proposal was a fair settlement and one which would not cause serious wage disruption in his plant. He was more partial, however, to a break on the basis of wool is wool and cotton is cotton.

"Mr. Michael felt the proposal was a fair one and one that would not seriously disrupt the wage situation in his own plant.

"Mr. Fly seemed to be fair-minded in his position on it. He felt, however, that because of the unsatisfactory business conditions it was unwise at the present time to put into effect any increased labor costs and that such steps should be postponed until we could see what was going to happen to N.R.A.

"I have, therefore, in accordance with Mr. Stanley Sweet's and your instructions designated a committee of seven and notified them of a meeting on this matter for April (May) 23rd here at 40 Worth Street as per the attached copies. The final decision on this matter must remain upon the entire satisfaction of this committee." (*)

The Southern manufacturers of overalls, work-pants, etc., were still opposed to any increases of any sort in wages, this group, of course, having always paid the lowest possible rates. The following excerpts from a letter to Deputy Administrator Oppenheim from Harry J. Johnson, of Oberman & Co., Jefferson City, Mo., is indicative of the line of thought and reasoning of this group:

"***Our position is that there is no practical necessity for making a decision on this matter

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(*) Letter dated May 9, 1935, from C. G. Daughters, Executive Director, Work Clothes Divisional Code Authority, to W. C. Morgan, General Manager, Cotton Garment Code Authority.

at this time. The principal argument of the clothing code authority in the 36-hour hearings was that it was necessary to put us on a 36-hour basis in order that there should not be unfair competition. This has been done, so in my opinion, the necessity for a pants decision is automatically disposed of.

"***I take it for granted that any order that you have in mind will increase the cost of at least a part of the pant manufacturers product. As I gather it, that is the purpose that you have in mind.

"***Here we are with the bulk of present prison production devoted to the manufacturer of pants coming directly in competition with us pant manufacturers employing free labor. The three largest manufacturers of pants in the United States are the Jobbers Pant Company of Baltimore, National Pant Company of Washington and Seminole Mfg. Company of McAlister, Okla., and in the bracket of the first ten comes the Kleeson Mfg. Company of Moundsville, W. Va. and last but not least in the very town in which I am dictating this letter, a convict factory is making the same amount of pants each day that it requires 900 outside operatives to make. Apparently, N.R.A. does not think this situation is bad enough without further aggrevating it. You all admit that this competition is unfair almost to the extent that it constitutes sufficient ground for us pant manufacturers to abandon the code--but even so, the only conclusion that we can draw from your desire to further increase our costs, is that you do not think that this handicap is sufficient, and that after giving us a dose of the 36-hour castor oil, that we should be further harassed with a so-called pant order. It would be very interesting to me from a purely academic view point to have an explanation of the mental processes that make possible this line of reasoning.

"***Our costs are already too high. It has been admitted by important N.R.A. authorities that we have gone higher than the general level of the country. Governmental interference with production increased the price of cotton by 100% and cotton is the chief fibre in the fabrics that we are talking about. On top of this they put a process tax equivalent to 60% of the price of cotton before the effect of governmental restrictions were felt. On top of this came the increase in textile wages of 70%. On top of this came an increase of 70% north and 85% south in cotton garment wages. On top of this came the 10% increase by virtue of the 36-hour order. Don't you think it is about time for you to call it a day and

rest upon your laurels if any. Do you want to bust us like you are breaking the cotton textile industry?

"***We are not interested in the complaints of the contractors. It is our opinion that they have no place in the economic scheme of things, they are simply parasites on the manufacturing body. They run their factories when they have work and when they haven't work they shut down. The plant industries are merchants as well as manufacturers--they strive for full 50 weeks operation each year. We take the merchandise hazards that go with such operations. We aim to hold our organization together and keep our people employed --some months we make money and some months we don't, but we are in an entirely different category than the contractors and we don't believe that their complaints have any right for consideration in this present discussion.

"Many of us are interested in goods of wool content simply for the purpose of making up a well rounded line, which we can sell and merchandise profitably. Most of us have expensive selling organizations. We produce goods that retail from from 98¢ to $1.98 in the main. Some goods are made that retail for $2.49 and $2.98. On account of the lack of purchase power and the price structure which we have reared, we sell few goods in the upper brackets, still we need them in order to service our trade on what their requirements may be and in order to enable our salesmen to make a living.

"***And last but not least, let me tell you that it is the same conviction of most of us in the pant industry, that this so-called 'pants order' is only an opening wedge which is planned eventually to bring us either into the clothing code or in close contact with them. We do not intend to have any part of them. We don't like their antecedents and we do not like the men in that industry. Let them go their way and we will go ours.***" (*)

(*) Letter dated May 8, 1935, to Burton Oppenheim, Deputy Administrator, from Harry J. Johnson, Oberman and Company.

In a later letter, dated May 23, 1935, Mr. Sweet wrote to Mr. Howard R. Heyman, of the Cyrus W. Scott Manufacturing Company, Houston, Texas, picturing the existing conditions very clearly, as follows:

> "Your letter to me was sent to Washington and therefore was relayed to one or two addresses in Washington before being sent up here to me, which accounts for the delay in answering.
>
> "There have been quite a few protests in regard to the possibility of a new pants settlement, owing I think mostly to a misapprehension of the facts. As you probably know yourself there has been a good deal of overlapping in this matter, both by members of the Clothing Code making garments which properly belong in our Code and members of our Code making garments which properly belong to the Clothing Code, without supervision on either side. The intent of the proposed settlement is purely and simply to divide pants so that, roughly speaking, cotton pants of any kind belong to the Cotton Garment Code and wool pants to the Clothing Code. Should, however, any member of the Cotton Garment Code wish to make woolen pants he has simply to pay the prices which are current in the Clothing Code plus a minimum for cutters and markers. This minimum we believe is already exceeded by nearly every manufacturer of good repute, and, as you say yourself, with minimum of 33 1/3¢ you are averaging considerably over 40¢ now. It is the feeling, therefore, of those who would like to see this get settled once and for all, that the minimum proposed would in very rate instances be greater than what is already being paid and in those instances it would probably be a good thing to have the manufacturer raised, as he is probably doing nothing more than the law strictly allows. We are glad, of course, tohave any comments and suggestions from any member of the Industry and will endeavor to carry out the wishes of those most vitally interested in the matter." (*)

K. The Supreme Court Decision.

Then came the Supreme Court decision on May 27, 1935.

(*) Letter dated May 23, 1935, from Stanely A. Sweet, Chairman, Cotton Garment Code Authority, to Mr. Howard R. Heyman, % Cyrus W. Scott Mfg. Co., Houston, Texas.

The files here in Washington contain no reference to the newly-elected Cotton Garment Code Authority Pants Committee or the first meeting scheduled for May 23, 1935. However, Dr. Alfred Cahen, statistician for the Cotton Garment Code Authority, in his comments under date of February 12, 1936, on this Study, states as follows:

> "The Pants Committee of the Cotton Garment Code Authority on May 23, officially voted against the Administration's recommendations on classified wages. I attended this meeting to answer a few statistical questions. The meeting lasted several hours and no member representing the Administration happened to be present. The entire proceedings were taken in stenotype on Thursday afternoon May 23. The minutes were transcribed on Friday, May 24, and Saturday the Code Authority office was closed. On Monday the minutes were being proofread to be sent to N.R.A. but along came the Schechter decision. However, the decision of the Pants Committee of the Cotton Garment Code Authority in voting down the recommendations of the Administration, was reported in the trade paper, the Daily News Record, during one of the days shortly following May 23." (*)

It is not possible at this time to secure the minutes of this meeting for any detailed discussion as to why this action was taken. The Daily News Record of Saturday, May 25, 1935, comments on this committee meeting as follows:

> "The Cotton Garment Code Authority's committee appointed to deal with the overlapping of the Men's Clothing and Garment Codes in connection with pants had decided that there should be no increase in labor costs to garment manufacturers while the industry was being subjected to competition of prisons which were making these garments.
>
> "Five of the seven members of this Committee were present at the meeting, at which Chas. G. Daughters, executive director of the Work Clothes Divisional Code Authority, acted as chairman. This Committee, as noted, was chosen at the last meeting of the Code Authority, and has full power to act for the garment industry." (**)

(*) Memorandum dated February 12, 1936, to J. W. Hathcock from Alfred Cahen.

(**) Daily News Record (Fairchild Publications) May 25, 1935.

If the National Recovery Administration had been continued, this long-standing jurisdictional conflict between the Men's Clothing Code and the Cotton Garment Code over single pants and men's wash suits would, it is believed, have been adjusted to the satisfaction of the manufacturers of both industries.

L. Brief Summary and Findings on Overlap Problem.

Some of the earlier measures taken and amendments approved, rushed through in considerable haste in the effort to secure some immediate improvement in the very troublesome situation, were bound to fail, because they approached the question from the wrong angle. Later experience proved that it was impractical and virtually impossible to attempt to compel manufacturers to pay different wage scales to the same operators working on similar garments, merely because the fabric used in one case was wool and in the other case cotton.

The chief causes of the conflict, of course, were the more favorable hour and wage provisions of the original Cotton Garment Code. When the hours were equalized, and the minimum wage scales proportionately advanced, the eventual solution of the problem became vastly easier.

During the last few months of the N.R.A., Deputy Administrator Oppenheim spent a very considerable portion of his time on this controversy alone, and as a result of many conferences, meetings, and long-distance telephone conversations with the Code Authorities and manufacturers of both industries, he worked out a plan for setting up certain equalized classified wages for cutters and pressers for both Codes, and for permitting the manufacturers of each Code to produce a limited amount of garments from the fabrics normally cut only under the other Code.

Certain Southern manufacturers still objected, even to this plan, but the consensus of opinion from both industries was reacting so favorably to Deputy Administrator Oppenheim's suggestion that it was only a question of a short period of time before these amendments would have been officially approved and added to these Codes.

OFFICE OF THE NATIONAL RECOVERY ADMINISTRATION
THE DIVISION OF REVIEW

THE WORK OF THE DIVISION OF REVIEW

Executive Order No. 7075, dated June 15, 1935, established the Division of Review of the National Recovery Administration. The pertinent part of the Executive Order reads thus:

> The Division of Review shall assemble, analyze, and report upon the statistical information and records of experience of the operations of the various trades and industries heretofore subject to codes of fair competition, shall study the effects of such codes upon trade, industrial and labor conditions in general, and other related matters, shall make available for the protection and promotion of the public interest an adequate review of the effects of the Administration of Title I of the National Industrial Recovery Act, and the principles and policies put into effect thereunder, and shall otherwise aid the President in carrying out his functions under the said Title. I hereby appoint Leon C. Marshall, Director of the Division of Review.

The study sections set up in the Division of Review covered these areas: industry studies, foreign trade studies, labor studies, trade practice studies, statistical studies, legal studies, administration studies, miscellaneous studies, and the writing of code histories. The materials which were produced by these sections are indicated below.

Except for the Code Histories, all items mentioned below are scheduled to be in mimeographed form by April 1, 1936.

THE CODE HISTORIES

The Code Histories are documented accounts of the formation and administration of the codes. They contain the definition of the industry and the principal products thereof; the classes of members in the industry; the history of code formation including an account of the sponsoring organizations, the conferences, negotiations and hearings which were held, and the activities in connection with obtaining approval of the code; the history of the administration of the code, covering the organization and operation of the code authority. the difficulties encountered in administration, the extent of compliance or non-compliance, and the general success or lack of success of the code; and an analysis of the operation of code provisions dealing with wages, hours, trade practices, and other provisions. These and other matters are canvassed not only in terms of the materials to be found in the files, but also in terms of the experiences of the deputies and others concerned with code formation and administration.

The Code Histories, (including histories of certain NRA units or agencies) are not mimeographed. They are to be turned over to the Department of Commerce in typewritten form. All told, approximately eight hundred and fifty (850) histories will be completed. This number includes all of the approved codes and some of the unapproved codes. (In Work Materials No. 18, Contents of Code Histries, will be found the outline which governed the preparation of Code Histories.)

(In the case of all approved codes and also in the case of some codes not carried to final approval, there are in NRA files further materials on industries. Particularly worthy of mention are the Volumes I, II and III which constitute the material officially submitted to the President in support of the recommendation for approval of each code. These volumes

set forth the origination of the code, the sponsoring group, the evidence advanced to support the proposal, the report of the Division of Research and Planning on the industry, the recommendations of the various Advisory Boards, certain types of official correspondence, the transcript of the formal hearing, and other pertinent matter. There is also much official information relating to amendments, interpretations, exemptions, and other rulings. The materials mentioned in this paragraph were of course not a part of the work of the Division of Review.)

THE WORK MATERIALS SERIES

In the work of the Division of Review a considerable number of studies and compilations of data (other than those noted below in the Evidence Studies Series and the Statistical Material Series) have been made. These are listed below, grouped according to the character of the material. (In Work Materials No. 17, Tentative Outlines and Summaries of Studies in Process, these materials are fully described).

Industry Studies

Automobile Industry, An Economic Survey of
Bituminous Coal Industry under Free Competition and Code Regulation, Economic Survey of
Electrical Manufacturing Industry, The
Fertilizer Industry, The
Fishery Industry and the Fishery Codes
Fishermen and Fishing Craft, Earnings of
Foreign Trade under the National Industrial Recovery Act
- Part A - Competitive Position of the United States in International Trade 1927-29 through 1934.
- Part B - Section 3 (e) of NIRA and its administration.
- Part C - Imports and Importing under NRA Codes.
- Part D - Exports and Exporting under NRA Codes.

Forest Products Industries, Foreign Trade Study of the
Iron and Steel Industry, The
Knitting Industries, The
Leather and Shoe Industries, The
Lumber and Timber Products Industry, Economic Problems of the
Men's Clothing Industry, The
Millinery Industry, The
Motion Picture Industry, The
Migration of Industry, The: The Shift of Twenty-Five Needle Trades From New York State, 1926 to 1934
National Labor Income by Months, 1929-35
Paper Industry, The
Production, Prices, Employment and Payrolls in Industry, Agriculture and Railway Transportation, January 1923, to date
Retail Trades Study, The
Rubber Industry Study, The
Textile Industry in the United Kingdom, France, Germany, Italy, and Japan
Textile Yarns and Fabrics
Tobacco Industry, The
Wholesale Trades Study, The
Women's Neckwear and Scarf Industry, Financial and Labor Data on

Women's Apparel Industry, Some Aspects of the

Trade Practice Studies

Commodities, Information Concerning: A Study of NRA and Related Experiences in Control
Distribution, Manufacturers' Control of: Trade Practice Provisions in Selected NRA Codes
Distributive Relations in the Asbestos Industry
Design Piracy: The Problem and Its Treatment Under NRA Codes
Electrical Mfg. Industry: Price Filing Study
Fertilizer Industry: Price Filing Study
Geographical Price Relations Under Codes of Fair Competition, Control of
Minimum Price Regulation Under Codes of Fair Competition
Multiple Basing Point System in the Lime Industry: Operation of the
Price Control in the Coffee Industry
Price Filing Under NRA Codes
Production Control in the Ice Industry
Production Control, Case Studies in
Resale Price Maintenance Legislation in the United States
Retail Price Cutting, Restriction of, with special Emphasis on The Drug Industry.
Trade Practice Rules of The Federal Trade Commission (1914-1936): A classification for comparison with Trade Practice Provisions of NRA Codes.

Labor Studies

Cap and Cloth Hat Industry, Commission Report on Wage Differentials in
Earnings in Selected Manufacturing Industries, by States, 1933-35
Employment, Payrolls, Hours, and Wages in 115 Selected Code Industries 1933-35
Fur Manufacturing, Commission Report on Wages and Hours in
Hours and Wages in American Industry
Labor Program Under the National Industrial Recovery Act, The
Part A. Introduction
Part B. Control of Hours and Reemployment
Part C. Control of Wages
Part D. Control of Other Conditions of Employment
Part E. Section 7(a) of the Recovery Act
Materials in the Field of Industrial Relations
PRA Census of Employment, June, October, 1933
Puerto Rico Needlework, Homeworkers Survey

Administrative Studies

Administrative and Legal Aspects of Stays, Exemptions and Exceptions, Code Amendments, Conditional Orders of Approval
Administrative Interpretations of NRA Codes
Administrative Law and Procedure under the NIRA
Agreements Under Sections 4(a) and 7(b) of the NIRA
Approve Codes in Industry Groups, Classification of
Basic Code, the -- (Administrative Order X-61)
Code Authorities and Their Part in the Administration of the NIRA
Part A. Introduction
Part B. Nature, Composition and Organization of Code Authorities

Part C. Activities of the Code Authorities
Part D. Code Authority Finances
Part E. Summary and Evaluation
Code Compliance Activities of the NRA
Code Making Program of the NRA in the Territories, The
Code Provisions and Related Subjects, Policy Statements Concerning
Content of NIRA Administrative Legislation
Part A. Executive and Administrative Orders
Part B. Labor Provisions in the Codes
Part C. Trade Practice Provisions in the Codes
Part D. Administrative Provisions in the Codes
Part E. Agreements under Sections 4(a) and 7(b)
Part F. A Type Case: The Cotton Textile Code
Labels Under NRA, A Study of
Model Code and Model Provisions for Codes, Development of
National Recovery Administration, The: A Review of its Organization and Activities
NRA Insignia
President's Reemployment Agreement, The
President's Reemployment Agreement, Substitutions in Connection with the
Prison Labor Problem under NRA and the Prison Compact, The
Problems of Administration in the Overlapping of Code Definitions of Industries and Trades, Multiple Code Coverage, Classifying Individual Members of Industries and Trades
Relationship of NRA to Government Contracts and Contracts Involving the Use of Government Funds
Relationship of NRA with States and Municipalities
Sheltered Workshops Under NRA
Uncodified Industries: A Study of Factors Limiting the Code Making Program

Legal Studies

Anti-Trust Laws and Unfair Competition
Collective Bargaining Agreements, the Right of Individual Employees to Enforce
Commerce Clause, Federal Regulation of the Employer-Employee Relationship Under the
Delegation of Power, Certain Phases of the Principle of, with Reference to Federal Industrial Regulatory Legislation
Enforcement, Extra-Judicial Methods of
Federal Regulation through the Joint Employment of the Power of Taxation and the Spending Power
Government Contract Provisions as a Means of Establishing Proper Economic Standards, Legal Memorandum on Possibility of
Industrial Relations in Australia, Regulation of
Intrastate Activities Which so Affect Interstate Commerce as to Bring them Under the Commerce Clause, Cases on
Legislative Possibilities of the State Constitutions
Post Office and Post Road Power -- Can it be Used as a Means of Federal Industrial Regulation?
State Recovery Legislation in Aid of Federal Recovery Legislation History and Analysis
Tariff Rates to Secure Proper Standards of Wages and Hours, the Possibility of Variation in
Trade Practices and the Anti-Trust Laws
Treaty Making Power of the United States
War Power, Can it be Used as a Means of Federal Regulation of Child Labor?

THE EVIDENCE STUDIES SERIES

The Evidence Studies were originally undertaken to gather material for pending court cases. After the Schechter decision the project was continued in order to assemble data for use in connection with the studies of the Division of Review. The data are particularly concerned with the nature, size and operations of the industry; and with the relation of the industry to interstate commerce. The industries covered by the Evidence Studies account for more than one-half of the total number of workers under codes. The list of those studies follows:

Automobile Manufacturing Industry
Automotive Parts and Equipment Industry
Baking Industry
Boot and Shoe Manufacturing Industry
Bottled Soft Drink Industry
Builders' Supplies Industry
Canning Industry
Chemical Manufacturing Industry
Cigar Manufacturing Industry
Coat and Suit Industry
Construction Industry
Cotton Garment Industry
Dress Manufacturing Industry
Electrical Contracting Industry
Electrical Manufacturing Industry
Fabricated Metal Products Mfg. and Metal Finishing and Metal Coating Industry
Fishery Industry
Furniture Manufacturing Industry
General Contractors Industry
Graphic Arts Industry
Gray Iron Foundry Industry
Hosiery Industry
Infant's and Children's Wear Industry
Iron and Steel Industry
Leather Industry
Lumber and Timber Products Industry
Mason Contractors Industry
Men's Clothing Industry
Motion Picture Industry
Motor Vehicle Retailing Trade
Needlework Industry of Puerto Rico
Painting and Paperhanging Industry
Photo Engraving Industry
Plumbing Contracting Industry
Retail Lumber Industry
Retail Trade Industry
Retail Tire and Battery Trade Industry
Rubber Manufacturing Industry
Rubber Tire Manufacturing Industry
Shipbuilding Industry
Silk Textile Industry
Structural Clay Products Industry
Throwing Industry
Trucking Industry
Waste Materials Industry
Wholesale and Retail Food Industry
Wholesale Fresh Fruit and Vegetable Industry
Wool Textile Industry

THE STATISTICAL MATERIALS SERIES

This series is supplementary to the Evidence Studies Series. The reports include data on establishments, firms, employment, Payrolls, wages, hours, production capacities, shipments, sales, consumption, stocks, prices, material costs, failures, exports and imports. They also include notes on the principal qualifications that should be observed in using the data, the technical methods employed, and the applicability of the material to the study of the industries concerned. The following numbers appear in the series:
9768--5.

Asphalt Shingle and Roofing Industry
Business Furniture
Candy Manufacturing Industry
Carpet and Rug Industry
Cement Industry
Cleaning and Dyeing Trade
Coffee Industry
Copper and Brass Mill Products Industry
Cotton Textile Industry
Electrical Manufacturing Industry
Fertilizer Industry
Funeral Supply Industry
Glass Container Industry
Ice Manufacturing Industry
Knitted Outerwear Industry
Paint, Varnish, and Lacquer, Mfg. Industry
Plumbing Fixtures Industry
Rayon and Synthetic Yarn Producing Industry
Salt Producing Industry

THE COVERAGE

The original, and approved, plan of the Division of Review contemplated resources sufficient (a) to prepare some 1200 histories of codes and NRA units or agencies, (b) to consolidate and index the NRA files containing some 40,000,000 pieces, (c) to engage in extensive field work, (d) to secure much aid from established statistical agencies of government, (e) to assemble a considerable number of experts in various fields, (f) to conduct approximately 25% more studies than are listed above, and (g) to prepare a comprehensive summary report.

Because of reductions made in personnel and in use of outside experts, limitation of access to field work and research agencies, and lack of jurisdiction over files, the projected plan was necessarily curtailed. The most serious curtailments were the omission of the comprehensive summary report; the dropping of certain studies and the reduction in the coverage of other studies; and the abandonment of the consolidation and indexing of the files. Fortunately, there is reason to hope that the files may yet be cared for under other auspices.

Notwithstanding these limitations, if the files are ultimately consolidated and indexed the exploration of the NRA materials will have been sufficient to make them accessible and highly useful. They constitute the largest and richest single body of information concerning the problems and operations of industry ever assembled in any nation.

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